The Solicitors' Journal

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Current Topics.

Latin in Court.

EVERY now and again some classical enthusiast is found deploring the decay of quotation from Latin and Greek, those who have given it up probably having in mind the remark attributed to the DUKE OF WELLINGTON when, being asked by a new Member of Parliament for advice as to addressing the House, he replied "Say what you have got to say, don't quote Latin, and sit down"—a piece of advice certainly very apt and useful in the majority of cases. Latin, however, is still occasionally quoted by members of the Bench and sometimes by members of the Bar, although some of the latter are sometimes shaky in their quantities. The late JAMES PAYN, the eminent novelist, never could understand how it is that a false quantity in Latin is so mirth-provoking while a similar solecism in English passes unobserved; to the scholar, however, a false quantity is anathema. Not so long ago the Lord Chief Justice, whose classical attainments are well known, was startled by hearing a member of the Bar pronouncing the word "judice" with the "i" long; he said nothing at the time, but when, the argument finished, he came to give his decision, he remarked that the case was a simple one and therefore his judgment, like the "i" in "judice," would be short! Other distinguished judges have also been facetious in Latin, as was the late Mr. Justice (afterwards Lord Justice) CHITTY, who, when a portion of the ceiling fell on to his desk, was heard to murmur, "*Fiat justitia ruat cælum*," which was certainly apt. One of his successors in the Chancery Division, Mr. Justice EVE, has also what the eighteenth century writers called "a pretty wit," and of this he gave amusing evidence the other day while sitting as a member of the Court of Appeal. The case before the court was a claim for damages sustained by the plaintiff while endeavouring to hold a restive horse belonging to the defendants which had run off and which the driver was trying, but without much success, to pacify. In giving judgment holding the claim not sustainable, both Lord Justice SCRUTTON and Lord Justice SLESSER pointed out that after the alleged negligence of the defendants in sending out the particular horse which was said to have bolted at least on one occasion previously, there had been a "*novus actus interveniens*," and that the maxim "*volenti non fit injuria*" applied. There had also been quoted in another connection the familiar tag "*post hoc ergo propter hoc*." It then came to the turn of Mr. Justice EVE to give his judgment, and he, with commendable brevity and with a sly allusion to the profusion of Latin phrases to which he had been listening, said that not to be behind his learned colleagues he would only add that in his opinion the plaintiff sustained his accident "*ex mero motu*," at which the Lords Justices smiled. Latin may therefore be said to be still a going concern in the courts of this country whatever be the case in the United States, where recently a member of the Bar announced that there they had no longer any use for it.

Appeals in Bastardy Cases.

IT is to be hoped that the suggestion put forward in a recent letter to *The Times* on this subject from the pen of the distinguished lawyer so long and well known to practitioners as Master WATKIN WILLIAMS will receive the attention which its importance deserves at the hands of those concerned in reforming the law touching appeals from justices. What looks like a small extract from the letter in question appeared in *The Times* among the "points from letters," which our great daily contemporary publishes and as a result may have passed almost unnoticed in the crowd of minor suggestions appearing daily in that form on every conceivable topic. The suggestion of Mr. WATKIN WILLIAMS is that it would appear as if the proposed increased facilities in connection with appeals to quarter sessions are not to apply to bastardy cases, "because such cases are in the nature of civil, and not criminal proceedings." But decisions in these cases have a far-reaching effect, and may be followed by imprisonment in the event of default. Moreover, as the writer points out, the persons concerned are often quite young and the expense of an appeal is a serious burden. We agree in hoping that this matter may have due consideration. The distinction between civil, quasi-criminal and criminal proceedings is often narrowed down to a very fine point and grave injustice may result if this distinction is not kept clearly in mind. Before leaving this matter we would like to observe that Mr. WATKIN WILLIAMS' intervention provides one more illustration of the valuable work which is being done in their private capacity as local justices by so many distinguished judges and other holders of responsible legal appointments. For many years whilst in office Mr. WILLIAMS—a Chancery Master be it noted—had been doing his full share of magisterial work in far away Devonshire. It is pleasant to know that in well-earned retirement this useful activity is continuing.

The Criminal Statistics Report.

THE blue book containing the Home Office report on Criminal Statistics for England and Wales always provides plenty of material for comment and reflection on the part of all concerned in the administration of the criminal law. Unfortunately, the information it contains is always some eighteen months out of date. The report just issued is for the year 1931. Making all due allowance for the very large amount of statistical detail comprised in this blue book, we cannot help thinking that it should be possible to prepare it in very much less time. Much of the volume is made up of "standing" matter, e.g., pp. 147 to 186 which call for very little, if any, amendment from year to year; moreover the statistics are derived from so large a variety of sources that a little "gingering up" of those responsible for sending in annual returns would surely be possible. However that may be, the report, when it arrives, makes profitable reading. The state of affairs disclosed as happening in 1931 is very satisfactory in some respects, but disturbing in others. Thus we read that

the figures for non-indictable offences show steady improvement in social habits as compared with returns for 1910-14 and for 1925-29. Drunkenness and assault cases have declined from over 230,000 annual average during the first-named period, and 97,000 average in the second-named to 69,000 in 1931. Poor-law offences show the same trend. Cruelty to children cases number now about one-fourth of the pre-war average; and the same remark applies to offences against the Education Acts. On the other hand, the motor car has provided an enormous increase in offences under the Highway Acts—a leap from 160,000 in 1924 to 274,000 in 1931. Traffic offences constituted 43 per cent. of the proceedings for criminal offences in 1931. Serious crime, unhappily, seems to be steadily on the increase. Burglary, housebreaking and shopbreaking have increased 60 per cent. during the same period. Robbery with violence provided as many cases in the Metropolitan Police district as in the whole of the rest of England and Wales. Larceny cases have gone up 40 per cent. since 1924, whilst fraud and false pretences have increased by 66 per cent. Not an altogether pleasing report. The introductory note in dealing with these figures comments on the prevalence of juvenile crime, especially in regard to theft—the largest relative increase in housebreaking being shown to have been due to young persons ranging in age from sixteen to twenty-one.

Crown Costs.

THE general rule is that the King neither pays nor receives costs, and the historical ground for such a rule is supplied by Blackstone (3 Commentaries, 400) with the words "for, besides that he is not included under the general words of the statutes relative to costs, as it is his prerogative not to pay them to a subject, so it is beneath his dignity to receive them." But the change proposed by the Administration of Justice (Miscellaneous Provisions) Bill, which was read the second time on 28th June, is not so complete as these words suggest, for, although the Bill provides a new rule whereby the Crown shall pay and receive in the future, the Crown *has* so paid and received in the past under exceptions to the old rule. It has paid, etc., under the express words of many statutes, notably under the Petitions of Right Act, 1860, s. 12. It has paid, or rather received, in cases with the Commissioners of Inland Revenue; it has paid in cases having special circumstances (*Re Carbonit* [1924] 2 Ch. 53); and above all it pays and receives in many proceedings in the Chancery Division. The Attorney-General, as defendant to an originating summons on behalf of a charity, often participates in the costs (*Moggridge* v. *Thackwell* (1803), 7 Vesey, 36); and in *Attorney-General* v. *Earl of Ashburnham* (1823), 1 Sim & S. 394, LEACH, V.-C., referring to this rule, said: "I find no such general principle in courts of equity." It appears, then, that this Bill is merely giving expression to a principle which has been implicit in much past law. With time the King has been "included under the general words of the statutes," and with time the Crown has had less personal as distinct from professional interest in the proceedings conducted in its name, and thus "his dignity" cannot be impaired by the change of rule.

Local Government Anomalies.

DURING the recent consideration of the Local Government Bill by the Joint Parliamentary Committee, Mr. E. J. MAUDE, Solicitor to the Ministry of Health, drew attention to some of the defects of the existing law. The law relating to the transfer and compensation of local government officers was, he pointed out, applied by reference to rules made under the Local Government Act, 1888, though in the strict sense rules had never been made. The Treasury had followed certain practice, but that had never been put in the form of rules. A new clause was passed dealing with the matter. Mr. MAUDE also pointed out that if a local authority bought land and built a school in breach of a restrictive covenant, an adjoining owner would be entitled to compensation. But if the local authority built houses in similar circumstances, the owner would have no such right. A new clause which was passed by the Committee provided for compensation in both these cases. It was noted at the same discussion that under existing law the largest and smallest local government units—county and parish—can acquire land by agreement for the purpose of any of their functions, but that none of the big city and town councils could acquire land even by agreement except on express authority. We are indebted to *The Times* of 28th June for the foregoing.

Regulating the Marketing of Hops.

THE scheme recently put forward by the Ministry of Agriculture for regulating the marketing of hops has naturally given rise to a good deal of discussion in circles interested. An industrial contemporary recalls the fact that in the Agricultural Museum at Maidstone there is preserved an ancient banner which was carried in procession to a meeting in Trafalgar Square assembled to demand a duty of 40s. per cent. on imported hops. On the banner are inscribed the lines:—

> "And shall hops picked by Chinamen,
> Make England's hop trade die?
> Here's 50 thousand Kentish men
> Will know the reason why."

In the same connection is recalled *Waddington's Case* (*Rex* v. *Waddington* (1800), 102 E.R. 56), in which the defendant was charged (upon information filed by leave of the court) with alleged offences at common law, to wit, spreading rumours (with intent to enhance the price of hops) that the stock of hops was exhausted and that there would be a scarcity with intent to induce growers to keep back supplies from market; also buying up large quantities of hops by contracting for their purchase with intent to (as we should now say) "corner" them. These two charges were varied into nine counts in the indictment, and upon that defendant was convicted at Worcester Assizes "after a very long trial" before Le Blanc, J. A motion in arrest of judgment followed, and after various delays during which Lord KENYON, C.J., presiding over a full Court of King's Bench, reserved judgment, a long judgment was delivered by GROSE, J., on the statute of 12 Geo. III, c. 71, at the close of which the defendant was fined £500 and ordered to be further imprisoned for a month (he had not been bailed!) and until the fine was paid. The unfortunate prisoner was subsequently tried and convicted before Lord KENYON on another similar indictment alleging that he had done the same thing at Maidstone. On this he had to pay another £500 fine, plus three months' imprisonment (consecutive) and to remain in prison until that was paid.

Development of Rural Areas.

REFERENCES to the Town and Country Planning Act, 1932, were made by speakers at the annual meeting of the Rural District Councils Association, which took place at the Guildhall on the 27th June. The President, Sir PERCY HURD, M.P., noted that the Act gave rural councils a new opportunity of preserving the amenities of the country-side against bungaloids, garish roadside dwellings, garish garages and posters. Sir E. HILTON YOUNG, M.P., Minister of Health, said that he did not think it was fully realised even yet how extensive and inclusive were the powers now granted to plan, for there was no purpose which could be, and ought to be, served by planning which could not now be served under the powers of the Act. The same speaker stressed the importance of preserving woodlands—a matter involving some financial sacrifice and one upon which the community must make up its mind whether it was worth paying for or not. Above all, the importance of the housing situation in relation to the local slum was emphasised, this being "as much," said the Minister, "for rural as for city authorities."

Traffic Signs.

THE report of the Departmental Committee which was appointed in December, 1931, to consider "the existing system of 'traffic signs' as defined in s. 48 of the Road Traffic Act, 1930" and to "make recommendations as to the exercise by the Minister of Transport of his powers under that section" has been published by the Stationery Office (No. 88–24, price 3s. net). The Committee met under the chairmanship of Sir Henry Maybury, and contained representatives of the Ministry of Transport, the Home Office, the Scottish Office, the police, the highway authorities and road users. The report is a lengthy document illustrated by diagrams. It is only possible to deal with some of its chief features here. Perhaps the most important suggestion is that a new sign "Major Road Ahead" should be erected on roads of lesser traffic importance to warn drivers that they are approaching a more important road. Almost every user of the road will recognise this as a reform long overdue. While the law makes no distinction between the busier and the less frequented of the King's highways, negligence is a question of fact in assessing blame for an accident, and it is probable that under existing conditions emergence from a side may be a factor. In future this type of offender will have less excuse. Where circumstances require the use of warning signs other than those recommended, these should take the form of a standard red triangle with a board or plate underneath stating in black letters on a white ground the nature of the danger to be anticipated, but, save in exceptional circumstances, the Committee is averse to signs indicative of special danger on the ground that these would weaken the significance of standard signs. The use of mirrors at street corners should be discontinued. Reflex lenses are favoured for use on telegraph poles, projecting walls, bridges, etc., and also upon a new type of safety post. The Committee deprecates the use of advertising signs on tramway standards or posts on the highway, or of direction signs to public buildings, etc., except in cases of real necessity, nor should these be of a form liable to lead to confusion with traffic signs. Unnecessary or misleading signs, including red triangles without an indication of the nature of the danger and signs indicating obsolete speed limits, should be removed. The Committee is clearly alive to the necessity of the suppression of superfluous signs, indeed. This may be well considered as important as the creation of new ones. A similar attitude is observable in the recommendations with regard to the white line—an excellent device in danger of becoming useless through unwise employment. The Committee recommends restraint. They should be used where they reduce danger or are of material use to traffic such as across highways at "stop" lines, or for marking the course to be taken at road junctions, corners and curves. The police should always be consulted before white lines are laid down at road junctions which they control. Various other uses of this device are set out. The report deals clearly with the practice known as "skipping the lights." Amber-with-red on the light signals does not alter the prohibitory significance of the red signal, it merely indicates to waiting drivers that they should prepare to move (or, as it has sometimes been put, to enable Scotsmen to know when to start their engines). Amber alone means "stop" unless, when it first appears after the green, the driver is so close to the line that he cannot stop with safety. In emphasising the importance of the rigorous observance of light signals the Committee notes an exception to the rule of stopping at the red light. If it should be necessary to allow traffic to proceed notwithstanding this light, this should be provided for by means of an additional lens of the standard size showing an illuminated green arrow on a black ground. Road users will support the usefulness of this exception. Filtration (turning to the left against the red signal) is deprecated. Light signals, which—the Committee recommends—should not be substituted for police constables on grounds of economy where they would be less effective in controlling traffic should (subject to this qualification) be used at junctions where (1) the traffic is so dense that control is necessary to maintain the regular movement of vehicles, (2) where control is not essential for maintaining a regular movement of traffic, but it is desirable in order to facilitate it and to prevent accidents, and (3) where there is no need for control for the purpose of facilitating the movement of traffic, but where, owing to particular circumstances, accidents would be frequent if control were not exercised.

Mention is made of the European Conference on Road Traffic held in Geneva in March, 1931. The Committee agrees, in view of the special character of the roads in this country, with the British Government's intimation at that Conference that, while they would bear in mind the possibility of adopting the use in Great Britain of any signs upon which the Conference agreed, they did not see their way at that time to extend their international obligations as regards traffic signs other than those specified in the Annex to the Convention of 1926. In a circular letter to all highway authorities, the Minister of Transport alludes to the reasons which have led the Committee to recommend a sign indicating a major road ahead differing from that adopted for the same purpose by the European Conference, and states that he accepts the unanimous conclusions of the Committee. Authorisations to supply signs are being issued to the motoring and cycling associations. The Minister states that he attaches great weight to the conclusions which have been reached by the Committee, and he urges the highway authorities to "take them into the closest consideration in preparing any schemes for the better sign-posting of their areas."

The Solicitors Act, 1933.

WE have now received a King's Printer's copy of this Act, which is precisely as published in our issue of last week.

As we pointed out in commenting upon the Bill in our issue for the 31st December, 1932, the Act represents a compromise between those who sponsored the Bill promoted by The Law Society and introduced by Sir Denis Herbert, and the Solicitors (Clients' Accounts) Bill, for which Sir John Withers was responsible.

We think that as a result of that compromise a very useful measure has been passed which (however unnecessary or even obnoxious in its implications, it may seem to many members of the profession) will, we have no doubt, tend to strengthen the confidence of the public in the profession as a whole, and, at any rate, shows that solicitors themselves are willing to submit to any reasonable provisions which have that end in view and make their clients more secure in their dealings with them.

The Act does not, in what we may call the operative sections, differ substantially from the Bill as printed in our issue of the 31st December, 1932, the alterations made being only drafting amendments. There is one alteration, however, in the proviso to s. 2 which may be pointed out and passed without comment. Under the Bill any penalty imposed upon a solicitor for failure to comply with the rules was to be paid to The Law Society and credited to the general funds of the Society. The Act provides that such penalties shall be forfeit to His Majesty.

The important amendments are by way of exception to the operation of the Act, and certain provisions regarding the position of banks. Section 4 excepts certain "public officers," as defined in the section. These include the solicitors to the Duchies of Cornwall and Lancaster, the Ecclesiastical Commissioners, Queen Anne's Bounty, and others, whose remuneration is defrayed out of public funds.

By s. 5 exception is made in favour of solicitors to local authorities, clerks of the peace and the like. The City Solicitor is exempted by s. 7.

The provisions regarding banks are contained in s. 8. The effect of sub-s. (1) of that section, stated shortly, seems to be that banks are not liable to make any enquiry or deemed to have any knowledge of any right of any person to money credited to a "client's account," which it would not incur or be under or be deemed to have if the moneys in the account belonged absolutely to the solicitor. The section does not, however, relieve a bank from any liability which it might be under apart from the Act.

It may be that questions will arise as to the construction and effect of this sub-section.

An important enactment is introduced in s. 8 (2), which operates to prevent a bank from having recourse to a "client's account" to make good an overdraft which the solicitor may have on any other account. This is a new and important addition to the Bill as it was introduced.

We think that The Law Society has done wisely in issuing, at this early stage, the draft of proposed Rules which we printed in our issue last week. The profession will have ample time to consider the proposals before the Act comes into force on the 1st January next, and we shall be glad to receive from readers of this journal any suggestions or criticisms relating to them. For the moment, we do not offer any comments upon the draft Rules, but will take an opportunity of doing so later. In the meantime we hope to have the views of our readers.

The New Supreme Court Rules.

THE new Supreme Court Rules (Rules of the Supreme Court No. 1, 1933) provide the most sweeping changes in practice yet attempted by those responsible for reforming High Court procedure.

By an amendment of Ord. 3, r. 6, the practice as to special indorsement of the writ of summons is extended to all actions in the King's Bench Division, except actions for libel, slander, malicious prosecution, false imprisonment, seduction or breach of promise, or actions in which fraud is alleged by the plaintiff. There is an option to the practitioner to vary the actual "indorsement" by a provision enabling the statement of claim to be set out in a separate document to accompany the writ, if so preferred.

The effect of bringing all these actions within the scope of Ord. 14, r. 1 (which has been amended to meet the new situation), is almost revolutionary. In all King's Bench actions, except those mentioned above, it will only be necessary for a plaintiff to swear that to the best of his knowledge and belief there is no defence to the action (a matter which a plaintiff is nearly always able to swear to, but which is likely to be hotly contested in such actions as "running down actions," which form a very considerable part of the defended actions coming to trial) to bring the merits of the action under the consideration of the Master for him to decide whether or not there is a *bona fide* defence.

The effect of the new provisions remains to be seen. They will probably be looked on with disfavour by the Bar as an attempt to restrict briefs. They will undoubtedly throw heavy burdens on the shoulders of the Masters who will be entitled to ask for an increase in their numbers to cope with the new situation.

Solicitors as a whole will doubtless consider it their duty to apply for judgment under Ord. 14 in all cases where it is possible to do so. The rule is permissive not obligatory, but Ord. 14, r. 1, has always been permissive and few solicitors have failed to take advantage of it because of this. And it is probable that many applications will be made under Ord. 14 which are quite outside of the scope of r. 1. Even so, it is doubtful whether many of the new class of Ord. 14 actions will reach judgment and be disposed of before the Master. While a few cases may be weeded out at this stage of the proceedings, the majority will proceed to trial.

It is, however, unjust to criticise too closely what appears to be a genuine attempt to modernise and speed up litigation. It is a step in the right direction, and whatever the number of cases that are disposed of under Ord. 14, it is all to the good that the weeding out process should be attempted.

There is, however, one feature of the extension of Ord. 14 to fresh classes of cases, which should be closely borne in mind, especially by defendants. It is the practice already adopted in many New Procedure and Short Cause (Ord. 14, r. 8) actions of directing that the affidavit in opposition to the plaintiff's application for judgment shall stand as the defence in the action. When it is remembered that the defendant's affidavit is often hurriedly prepared and rarely settled by counsel, it will be seen that such affidavit is mainly to state grounds on which the defendant claims the right to defend and may omit many *bona fide* and substantial grounds of defence which cannot afterwards be pleaded in court. Either the habit of treating the defendant's affidavit as his defence should be discouraged, or the judge should have more elastic powers of admitting some genuine—say, a statutory—ground of defence at the trial.

The revised procedure under Ord. 14, r. 1, will be watched with interest by all practitioners. But it is not free from difficulties of its own creation.

Divorce of British Subjects in France.

I AM indebted to a correspondent for certain comments upon my article on "Divorce of British Subjects in France." (The letter in question appears in "Correspondence," at p. 483 of this issue.) He is, of course, perfectly correct in stating that there is no such thing as English nationality. It is, however, customary in the French courts to refer to a British subject as being of English (or Scots or Canadian, etc., as the case may be) nationality, instead of using the correct but more cumbersome formula of British subject whose personal status is governed by English (or Scots or Canadian, etc., as the case may be) law." The term "English nationality" in the sense in which it is used in the judgment referred to is simply an abbreviated but clearly incorrect term to indicate that the national law to be applied is English. Our correspondent should not, however, imagine that it is assumed by the French courts that the personal status of every British subject is governed by English law.

The French courts in fact do apply more or less the principle that he has enunciated that it is "for a British court or counsel learned in the law to say which of the various systems of law known to the British Empire" is applicable, the only material difference between this and the actual practice being that the French courts consider that solicitors may also be sufficiently learned in the law to advise! In fact no divorce proceedings can be instituted by a foreigner in France until a certificate (termed a "certificat de coutume") has been delivered to the court by a lawyer qualified in the national law of such foreigner setting out what that law is in respect of divorce (or, for that matter, any other proceedings affecting the personal status of that foreigner). In the case of British subjects, it would be the duty of the British lawyer who furnishes such certificate to say what "system of law known to the British Empire" was applicable to the case.

It is certainly a novel suggestion that the object of the doctrine of the renvoi is to avoid the necessity of applying the correct national law to a British or American citizen, and that such doctrine has frequently been applied in France because of the "awkward predicament in which the French judges might otherwise find themselves." I would refer our correspondent to Dicey's "Conflict of Laws" and Bartin's "Principes

de Droit International Privé " on the subject of the " Doctrine of the Renvoi."

Article 13 of the Civil Code, repealed by the law of Nationality of 10th August, 1927, has nothing to do with domicil in the ordinary conception of the term.

Article 13 provided for a probationary period before full naturalisation was granted to a foreigner. During this period the foreigner was granted the full rights of French citizenship. Article 13 reads as follows :—

" The foreigner who has been authorised by decree to fix his domicil in France will there exercise all civil rights.

" The effect of the authorisation shall cease at the expiration of five years if the foreigner does not demand naturalisation, or if such demand is rejected.

" In case of death before naturalisation, the authorisation and the probationary period following it shall accrue to the benefit of the wife and children who were minors at the time of the decree of authorisation."

The foreigner authorised by decree to fix his " domicil " in France was commonly termed " admitted to domicil " and the domicil thus acquired was termed " domicile de droit," presumably for lack of a better term to distinguish it from naturalisation proper on the one hand and " domicile de fait," or domicil in the ordinary sense of the term, on the other.

The elements of ordinary domicil in French law are still governed by Article 102 of the Civil Code. Domicil in the French conception of the term is constituted by the place of principal residence, and differs materially from the English conception, inasmuch as the question of *animus manendi* does not arise. As stated above, domicil in this ordinary conception of the term used to be termed " domicile de fait," i.e., *de facto* domicil, to distinguish it from " domicile de droit," i.e., legal domicil, but owing to the repeal of Article 13 of the Civil Code " domicile de droit " has ceased to exist, whereas " domicile de fait " has not been affected by such repeal.

Company Law and Practice.

Books and Papers of a Company.

Every company is bound to acquire a considerable number of books and papers. For example, every company is bound to keep a register of charges (Companies Act, 1929, s. 88)—though not, as might perhaps be expected, a register of debenture-holders, notwithstanding the provisions of s. 73—a register of members (s. 95), and, in certain cases, an index to that register (s. 96), and a register of its directors or managers (s. 144). Particulars of what is to appear in these various registers are prescribed, but it is unnecessary here and now to go into these particulars.

Further instances which may be given in this connection are to be found in s. 122, which requires that a company shall cause to be kept proper books of account with respect to :—

(*a*) All sums of money received and expended by the company and the matters in respect of which the receipt and expenditure takes place :

(*b*) All sales and purchases of goods by the Company :

(*c*) The assets and liabilities of the company.

These books of account must be kept at the registered office of the company or at such other place as the directors think fit, and at all times are to be open to inspection by the directors. It is not unfair to assume that in the vast majority of cases the directors never give a thought as to the most suitable place to keep these books of account, even when they are not kept at the registered office ; and, after all, there seems no particular necessity in ordinary cases for any such cerebration, for they must usually be kept in the most convenient, and therefore proper, place. The company's register of charges has to be kept at the registered office of the company, as also have the register of members, and the index of the same, if any (s. 98). Inspection of these may be had free of charge by any member, except when the register is properly closed, during business hours (subject to such reasonable restrictions as the company in general meeting may impose, so that not less than two hours in each day be allowed for inspection). The register may properly be closed by the company for any time or times not exceeding in the whole thirty days in each year, on giving notice by advertisement in some newspaper circulating in the district in which the registered office of the company is situate (s. 99).

The register of directors or managers has also to be kept at the registered office of the company : there is a right of inspection similar to that subsisting in the case of the register of members, except that there is no right to close it during part of the year, as there is, under s. 99, with regard to the register of members. The reason for this difference is not far to seek : in the case of the register of members it is very desirable to have some period during which it is known exactly who are, and who are not, members of the company, as for instance, at the time when it is desired to send out the notices of, and hold, the annual general meeting.

An addition to the books which are kept by a going concern is made where the company is wound up by the court, for s. 193 provides that in such case the liquidator must keep, in the manner prescribed, proper books in which he must cause to be made entries or minutes of proceedings at meetings, and of such other matters as may be prescribed, and any creditor or contributory may, subject to the control of the court, personally or by his agent inspect any such books. Rules 169 and 170 of the Winding Up Rules, 1929, prescribe the books to be kept : they are a record book and a cash book : the rules give an indication as to what they should contain.

This brings us to the next stage, what is to happen to all these various books and papers when the company goes into liquidation or when it is finally dissolved ? They are, of course, documents of considerable use in the liquidation—indeed, if one thinks of attempting to liquidate a company without its books, one sees that they are almost a necessity. Section 282 provides that, in a liquidation, all books and papers of the company and of the liquidators shall, as between the contributories of the company, be *primâ facie* evidence of the truth of all matters purporting to be therein recorded : experience shows that there are many cases where this presumption can be, and has been, rebutted, but in the vast majority of cases no question of this sort does arise.

The section which deals with the disposal of the books and papers of a company which has been wound up and is about to be dissolved is s. 283, but before looking at this there is one little problem which, perhaps, deserves a moment's examination. It is, as everyone knows, a very common practice for a company to issue a debenture, or a series of debentures, which charge, either directly, or through the medium of a trust deed, the whole of the undertaking and assets, both present and future, of the company. Unfortunately, it is also, and particularly so at the present time, a very common thing for it to become necessary to enforce such a charge. A sale almost inevitably follows, and this sale is usually carried out by means of a receiver, who enters into the appropriate contract, which usually disposes, or attempts to dispose, of all the assets charged. In such a contract a clause by which the receiver sells, or agrees to hand over to the purchaser on completion, the books and papers of the Company, is not infrequently found, and objection is sometimes raised on the ground that the receiver has no power to dispose of these things. This objection, however, is not entirely well founded, for it is plain that there must be a power to dispose of some of them, at any rate. Such things as technical data and records must form part of the undertaking, and it must be also true in one sense, at any rate, that such things as the register of charges and the share register, are assets of the company. The actual books themselves are the property of the company, but it may be that the statutory obligation on the company to

keep them precludes the company from creating a valid charge upon them.

In any event, however, the question is little better than academic, for it can be of little advantage to a purchaser of the company's assets to have handed over to him such a thing as a register of any of the kinds indicated; whether the company's books of account can help a purchaser must be a matter of fact to be decided in each case, though generally speaking, one would be inclined to say that they do not. The best solution seems to be to provide in the contract for sale that the books and papers of the company shall be handed over to the purchaser if and so far as the receiver may properly do so.

Now for the dissolution of the company. Section 283 says that when a company has been wound up and is about to be dissolved, the books and papers of the Company and of the liquidator may be disposed of:—

(*a*) in the case of a winding up, by, or subject to the supervision of the court in such way as the court directs;

(*b*) in the case of a member's voluntary winding up, in such way as the company by extraordinary resolution directs, and, in the case of a creditor's voluntary winding up, in such way as the committee of inspection, or, if there is no such committee, as the creditors of the company may direct.

At this juncture it might be convenient to refer to the method of dissolution of companies. Section 221, referring to compulsory winding up, says that when the affairs of a company have been completely wound up, the court shall make an order that the company be dissolved from the date of the order, and the company shall be dissolved accordingly. As to voluntary winding up, the dissolution takes place three months after the registration of the return as to the holding of the final meeting or meetings (ss. 236 (4) and 245 (4)), though the court has power to make an order deferring the date of dissolution (*ibid*).

The legislature has not, however, seen fit to give an absolute power as to the disposal of the books and papers; though, perhaps, the danger is not so great as it used to be owing to the introduction of the creditors' voluntary winding up, cases can well be imagined where it would be undesirable to give an unqualified power of disposal; and s. 283 (3) therefore provides for the making of rules enabling the Board of Trade to prevent the destruction of the books and papers, and imposes a maximum penalty of £100 for a breach of any rules so made.

This power has been exercised, and r. 203 of the Winding Up Rules, 1929, is the result. The Board of Trade, this rule provides, may order that the books and papers of a company which has been wound up shall not be destroyed for such period (not exceeding five years from the dissolution of the company) as the Board thinks proper; and any creditor or contributory may make representations to the Board with regard to the destruction and may appeal to the court from any order made by the Board under the rule. The Board is also given power, subject to any order of the court, to vary or rescind any order made by it. The Board of Trade's veto overrides any resolution for destruction, which can only take effect subject to this veto. Rule 178 of the Winding Up Rules also deals with books and papers; 178 (1) providing that on a liquidator being released or removed from his office he must hand over to the Official Receiver or, as the case may be, the new liquidator, all books kept by him, and all other books, documents, papers and accounts in his possession relating to the office of liquidator; until this is done his release, if he is being released, is not to take effect.

Rule 178 (2) provides that the Board of Trade may, on the application of the liquidator or the Official Receiver, direct that documents of the company or the liquidator no longer required for the purpose of the liquidation, may be sold, destroyed or otherwise disposed of.

Mr. David Duncan Smith, solicitor, of Egham, Surrey, left £13,659, with net personalty £6,310.

A Conveyancer's Diary.

Mortgages to Insurance Companies—Policies as Collateral Security.

THERE is a question of some practical importance in these days which I think is worth the attention of readers of this column.

Time was when insurance companies were by no means willing to advance money upon the security of a mortgage of land. It was done, of course, but I think not very frequently. Nowadays in the search for suitable investments for their funds such companies are more ready to entertain proposals for loans of that kind—but, generally, upon terms.

It usually happens that an insurance company asked to make an advance on real or leasehold security makes it a condition that the mortgagor shall effect and assign as part of his security a policy of life assurance with the company and covenant to keep up the premiums.

There are, however, often practical difficulties. The mortgagor may be a man past middle life or not a "good life," and for him to effect a policy on his own life would entail payment of a prohibitive premium. That is quite a usual state of things, and not infrequently, I think, an attempt has been made to overcome the difficulty by the mortgagor effecting a policy in the name and on the life of one of his children, and obtaining an assignment of that policy and including it in the mortgage to the company.

The question is, can that be done? If not, is there any way in which the difficulty can be circumvented?

In the first place it must be observed that *primâ facie* a parent has no insurable interest in the life of a child.

By s. 1 of the Life Assurance Act, 1774, it is provided that—

"From and after the passing of this Act no insurance shall be made by any person or persons, bodies politic or corporate, on the life or lives of any person or persons or any other event or events whatsoever wherein the person or persons for whose use or benefit or on whose account such policy or policies shall be made, shall have no interest or by way of gaming or wagering; and that every such assurance contrary to the true intent and meaning hereof shall be null and void to all intents and purposes whatsoever."

Section 2 of the same Act enacts:—

"That it shall not be lawful to make any policy or policies on the life or lives of any person or persons or other event or events without inserting in such policy or policies the person's or persons' name or names interested therein or for whose use, benefit, or on whose account such policy is so made or underwrote."

It is plain, therefore, in the case which I am considering, that the father could not effect a policy on the life of a son for his own benefit and assign that to the company as additional security.

Suppose, however, that the father induces his son to effect a policy on his own life and then the policy is assigned to the father, who pays the premiums. Will that suffice?

That point was before the court in *Wainwright* v. *Bland* (1835), 1 M. & Rob. 481.

The headnote on this point reads "where A having no interest in the life of B induces him to cause a policy of insurance to be effected in his (B's) name, A finding the funds for the premiums and intending by assignment or otherwise to get the benefit of the policy for himself, so that it is substantially the policy of A, such policy is void as a fraudulent evasion of the statute 14 Geo. 3, c. 48, ss. 1 and 2."

In that case one Wainwright had induced a young relative, Miss Abercromby, who was living with him, to insure her life in her own name, but he had paid the first premium. The assured died leaving a will by which she bequeathed all her property to Wainwright, and appointed him her executor, and he in that capacity sued the insurance company upon the policy.

There were other policies (apart from the one in question in the action) which had been effected in similar circumstances and had been assigned by the assured to Wainwright.

Various allegations were made in the course of the action with which I am not concerned here.

In his summing-up to the jury Lord Abinger, C.B., said: "But the question in this case is, who was the party really and truly effecting the insurance? Was it the policy of Miss Abercromby? Or was it substantially the policy of Wainwright, the plaintiff, he using her name for purposes of his own? If you think that it was the policy of Miss Abercromby effected by her for her own benefit her representative is entitled to put it in force; and it would be no answer to say that she had no funds of her own to pay the premiums; Wainwright might lend her the money for that purpose and the policy still continue her own. But, on the other hand, if looking at all the strange facts which have been proved before you, you come to the conclusion that the policy was in reality effected by Wainwright: that he merely used her name, himself finding the money and meaning (by way of assignment or by bequest or in some other way) to have the benefit of it himself; then I am of opinion such a transaction would be a fraudulent evasion of the statute 14 Geo. 3, c. 48, and that your verdict should be for the defendants."

It seems, therefore, that a policy which is effected in the manner which I have mentioned will be void, even though the assured himself pays the first premium, if in fact the money was supplied by the father. The whole of the circumstances will be looked at to see whether substantially the policy was effected by the father for his own benefit.

It is hardly practicable for a child *bonâ fide* and at his or her own expense (as to the first premium) to effect a policy on his or her own life and then sell or give the policy to the father who is to be responsible for future premiums.

Presumably no reputable office would knowingly issue a policy which would be void under the Act of 1774, but it is difficult to see how a company could fail to be put on enquiry where a policy is effected by a child and forthwith assigned to the father who includes it in a mortgage to the company.

It may be, of course, that where a company had in fact issued a policy in such circumstances without being alive to what was the real transaction would be unlikely, having accepted premiums, to repudiate liability. Probably in many instances that would be so, but the policy of companies in matters of that kind is liable to change, the control of the company may pass into other hands, and perhaps re-insurers might have a voice in the matter. At any rate, a claim under such a policy may be successfully resisted, and it should be borne in mind that if it should be, the premiums paid could not be recovered.

I may add here that it will not do for a child to effect a policy expressly stated to be for the benefit of the father and so comply with the provisions of s. 2 of the Act of 1774. The policy would still be void under s. 1 of the Act.

It might be possible to keep the real nature of the transaction from the knowledge of the company by a child effecting a policy on his own life and paying the first premium by cash or his own cheque and then joining in the mortgage as surety for the father, and assigning the policy to the company as collateral security.

There are disadvantages in that method. If the child died and the policy money were applied by the company (as it would be) in paying off the mortgage, then the personal representatives of the child would be entitled to a transfer of the mortgage, the surety having the right to the benefit of securities held by the creditor. That might be very inconvenient and not at all what the father contemplated.

Again, the mortgaged property might be sold and the proceeds, of course, used for discharging the mortgage debt. If that were done the child would be entitled to a reassignment of the policy and to keep it for his own benefit, notwithstanding that the premiums had been paid by the father. That also would not generally be considered by the latter, or his representatives if he were dead, to be a satisfactory state of things.

On the whole this business of bringing into mortgages to an insurance company a policy effected with the company upon a life, other than that of the mortgagor, is a rather dangerous practice and may tend to unforeseen results.

Landlord and Tenant Notebook.

Evading s. 18 (1) of L.T.A., 1927.

Some time ago I came across a lease, granted since 1927, which contained the usual tenant's covenant to repair, fair wear and tear excepted, with the following proviso:—

"Provided that on the — day of —— One thousand nine hundred and —— [the last quarter-day before the expiration of the term] the tenant shall pay to the landlord together with the quarterly payment of rent then due the sum of £—— in lieu of dilapidations other than wanton damage to the premises and such fixed sum (to be recoverable in default of payment as rent in arrear) shall be accepted by the landlord in full and final satisfaction of the agreement to repair the premises other than repairs occasioned as aforesaid."

This, of course, strikes one as a draftsman's attempt to drive a coach-and-four through L.T.A., 1927, s. 18 (1), which, omitting words irrelevant to, and italicising the words most relevant to, the question, runs:—

"*Damages* for a breach of a covenant to leave or put premises in repair *at the termination of a lease* shall *in no case exceed* the amount (if any) by which the value of the reversion in the premises is diminished owing to the breach of such covenant as aforesaid; and in particular *no damages* shall be recovered for a breach of any such covenant to leave or put premises in repair *at the termination of a lease*, if it is shown that the premises, in whatever state of repair they might be, would at or shortly after the termination of the tenancy have been or be pulled down, or such structural alterations," etc.

Suppose, now, that the lessee, being a conscientious tenant, has punctiliously observed his repairing covenant when the date of the stipulated payment arrives. Can he, either by virtue of the L.T.A., 1927, s. 18 (1), or by virtue of some other rule of law, withhold it?

The first question calls for some consideration of the mischief of the common law which the statute was intended to remedy. This was undoubtedly the state of affairs revealed by *Rawlings* v. *Morgan* (1865), 18 C.B. (N.S.) 776, and *Inderwick* v. *Leech* (1884), 1 T.L.R. 484, in which lessors were held to be entitled to damages for disrepair, representing the diminished market values of the reversions, though the terms were about to expire or had expired, and though, in the one case, the plaintiff had made up his mind to demolish, and in the other had granted a new lease under which the new tenant had covenanted to effect substantial alterations.

Broadly speaking, then, the object of the sub-section is to take away a right to damages for failing to carry out repairs which would be of no use to the covenantee.

Now in the circumstances visualised, the agreed amount would *ex hypothesi* exceed the amount by which the value of the reversion in the premises has been diminished. Can the lessor argue either that his claim is not for damages for a breach of covenant, or that he is not claiming an amount in excess of that by which the value of the reversion has been diminished owing to the breach of a covenant to leave in repair?

The payment is described in the instrument as being "in lieu of dilapidations." "To pay dilapidations," is, of course, hardly good English. To give effect to the expression, it must be construed as meaning to pay—what? Surely,

damages for breach of the covenant to leave in repair. Similarly, a promise to accept a fixed sum in satisfaction of a promise to perform an act implies a breach of the latter promise. "Yes," the landlord may say, "but the proviso runs 'in lieu of,' not 'as,' or 'by way of.'" But if the "in lieu of" be taken literally, does not that deprive the proviso of all meaning whatsoever? For what effect can be given to an expression purporting to substitute something for nothing?

In other words, it seems to me that this proviso either adds an unenforceable liability or assesses a non-existent liability, and that the ingenuity of the draftsman has been wasted.

There is another ground on which the lessee might resist the demand. The words in brackets, "to be recoverable in default of payment as rent in arrear," do, I assume, merely make the remedy of distress applicable; but their absence would not prevent the tenant from alleging that the proviso called for a penal rent, which is merely a penalty for breach of contract. Penal rents were discussed in the "Notebook" of 9th May, 1931 (75 Sol. J. 305). The provision can hardly be valid as conferring on the tenant the right to do an act on payment—"one rent in one event, another rent in another set of circumstances" (*French* v. *Maule* (1842), 2 Dru. & War. 269). It is a payment to be made for any breach of a covenant to leave in repair. In so construing it, one strains the language in favour of the landlord; for the condition is not expressed, but it may be said that by accepting the lease the tenant contemplates the breach as provided for. But even if the landlord could show that, having regard to the type of house and length of term and behaviour of the average tenant it is the amount he would expect to be able to recover (with his surveyor's assistance), it seems doubtful whether the tests would be passed. In the landlord's favour, it can be said that the payment applies to one obligation only; but it can hardly be said that the loss incurred by breach would be difficult to ascertain, or that there was a genuine pre-estimate of his interest in the observance of the covenant to repair.

What applies to the first part of the sub-section applies *a fortiori* to the particular circumstances provided for in the second part, and, indeed, the whole object of the legislation would be defeated if the landlord could collect his fixed sum though the premises were to be demolished as soon as the term ended.

On the whole, the draftsmanship of this sub-section compares favourably with other recent efforts in landlord and tenant legislation. I am aware that "shortly after" is liable to lead to litigation, but the fixing of a period would have led to hard cases. The impersonal way in which intentions to demolish are dealt with intelligently anticipates the transfer of the landlord's interest to his wife or a limited company controlled by him, and also provides for cases in which his interest is limited owing to its being carved out of a head lease and the intention to demolish, etc., is that of the superior landlord.

Mr. William Simpson, solicitor, of Leicester, left estate of the gross value of £64,718, with net personalty £58,369. He left: £100 to Papworth Village Settlement; £1,000 to the Children's Hospital attached to the Leicester Royal Infirmary, for the endowment of two cots in memory of himself; £1,000 to Leicester Royal Infirmary, for the endowment of a bed in memory of his nephew, Lieutenant Cyril Woodhouse Simpson; £1,000 to Leicester District Nursing Association; £1,000 to the National Society for the Prevention of Cruelty to Children; £1,000 to the Leicester Charity Organisation Society; £1,000 to the Leicester Guild of the Crippled; £1,000 to the Leicester, Leicestershire and Rutland College; £100 to each of the following: The Leicester Discharged Prisoners' Aid Society, the Faire Hospital, the Leicester Domestic Mission, the Leicester Centre of St. John Ambulance Association, the Leicester and Leicestershire Maternity Hospital, the Leicestershire Footpaths Society, the Howard League of Penal Reform, the Rearsby District Nursing Association, the Leicester, Leicestershire, and Rutland Incorporated Institution for the Blind, the Leicester and County Mission to the Deaf and Dumb.

Our County Court Letter.

THE DEFINITION OF A "DOUBLE-BEDDED" ROOM.

The advent of the holiday season lends interest to the recent case of *Hamlyn* v. *Harris* at Weston-super-Mare County Court, in which the claim was for £2 12s. 6d. for breach of contract. The plaintiff's case was that (*a*) during a telephone conversation, the defendant booked one double room (with full board for himself and his wife) at the Links Hotel from the 13th to the 18th March, 1933; (*b*) the terms were 2½ guineas each per week or 9s. 6d. per day; (*c*) on arrival, the defendant appeared to have misgivings about the size of the hotel, and (on entering the bedroom) he pointed out that it was not a double-bedded room; (*d*) the plaintiff would have supplied two single beds (instead of one double bed) if the defendant had stayed. The defendant's case was that (1) he imagined the hotel would have been larger, standing in its own grounds; (2) he had emphasised that two beds were required; (3) although he had offered the plaintiff 5s. (and afterwards 10s.) for her trouble, plus 1s. for the gas meter, this was not an admission of liability; (4) the agreement should have been in writing. His Honour Judge Parsons, K.C., gave judgment for the defendant, with costs.

THE REMUNERATION OF DOCTORS.

(*Continued from* 77 Sol. J. 316.)

The principle of charging according to distance was recently considered at Croydon County Court in *MacGinty* v. *Dixon*, in which the claim was for £72 2s. 6d. for treating the defendant's wife for a sprained ankle. The plaintiff's case was that (1) he had made twenty-one visits, at a distance of 12 miles, and had therefore charged three guineas per visit, (2) although half a guinea or a guinea was the usual charge, a higher charge was made in another doctor's district (in accordance with medical etiquette) to rebut any inference of "poaching." Corroborative evidence (as to the fairness of the charges) was given by an ex-president of the Royal College of Surgeons, but the defendant contended that (*a*) the charges were unreasonable and excessive, (*b*) a fair charge would have been 45 guineas—the amount paid into court. His Honour Judge Harington held that the plaintiff was only entitled to 1½ guineas for each of the twenty-one visits, but that the other charges (viz., £5 19s. 6d.) were reasonable. The excess amount in court was ordered to be devoted towards the plaintiff's costs prior to the date of payment in.

LIABILITY FOR WORKMAN'S EYE INJURY.

(*Continued from* 77 Sol. J. 297.)

The question of the costs of an unsuccessful application recently arose at Coventry County Court in *Blencowe* v. *Courtaulds Limited*, in which the applicant's case was that (1) on the 7th April, 1932, he was chipping a boiler, and sustained an injury to his right eye; (2) after being an in-patient at a hospital (from the 12th to the 20th April) he returned to work on the 23rd June, having received 30s. a week as compensation; (3) a further operation was performed (between the 8th and 17th August) and he again returned to work on the 31st October, but continued as an out-patient until the 6th May, 1933; (4) although his left eye was affected before the accident, his right eye had given no trouble, but he now suffered from double vision, and cataract was forming in the left eye; (5) compensation (at 30s. a week) was therefore due from the 8th August to the 31st October. His Honour Judge Drucquer held that the applicant was not entitled to a declaration, as the change in vision had made no appreciable difference to his earning capacity. The existing award of £18 therefore concluded the matter, and the respondents applied for costs—on the ground that these would not fall upon the applicant, but upon his approved society. It was held, however, that the case was properly brought, and was one in which an offer might be made by the respondents, who accordingly suggested ten guineas.

POINTS IN PRACTICE.

Questions from Solicitors who are Registered Annual Subscribers only are answered, and without charge, on the understanding that neither the Proprietors nor the Editor, nor any member of the Staff, is responsible for the correctness of the replies given or for any steps taken in consequence thereof. All questions must be typewritten (in duplicate), addressed to the Editorial Department, 29-31, Breams Buildings, E.C.4, and contain the name and address of the Subscriber. In matters of urgency answers will be forwarded by post if a stamped addressed envelope is enclosed.

Colonial Will—Necessity for English Grant by way of Re-sealing—Liability for English Duties.

Q. 2766. A made his will appointing B his sole executor and bequeathed the residue of his estate to his brother C, who many years ago emigrated to New Zealand and was domiciled there. The estate consisted solely of personalty and a share in the estate of his father under the latter's will subject to his mother's life interest. C, the brother, died in New Zealand in February, 1933. A's estate has all been realised apart from the interest in expectancy, and is represented by cash at a bank in England. Probate of the will of C has been taken out in New Zealand, and an exemplification of probate has been produced to B, and the latter has been requested to remit to the executrix of C the balance of the estate in his hands. B would be grateful for advice as to his position with regard to any estate duty claim which it is presumed will attach to the moneys in his hands, and to the interest in expectancy and in particular whether he is the person accountable for such duty and, if so, what is the procedure. It is hoped that it will not be necessary to re-seal the New Zealand grant in England.

A. C's executrix is the person accountable for the estate duty payable by reason of the death of C. It will be necessary to re-seal the New Zealand grant in this country (1) because our courts will not recognise any will of personalty except such as our Court of Probate has by making a grant adjudged to be the last will of the deceased: *Price* v. *Dewhurst*, 4 Myl. and Cr. 76, and if B pays over to the executrix of C before her status is recognised in this country he will not get a good discharge, and (2) because anyone so acting as to enable C's executrix to dispense with an English grant makes himself an executor *de son tort*, and becomes responsible to the Crown for the duty which would have been payable here had probate been duly taken out here: *New York Breweries* v. *Attorney-General* [1898] A.C. 62. A re-sealed colonial grant has the same force and effect here as if an original grant of our Court of Probate (Colonial Probates Act, 1892).

Will—Class Gift—Maintenance.

Q. 2767. A, who died in 1933, by his will devised and bequeathed all his real estate and the residue of his personal estate unto his trustees upon trust for sale and conversion . . . and in the events which happened upon trust to pay and divide the capital and income of his residuary estate amongst all and every the children or child of his daughter living at his death who being grandsons or a grandson should attain the age of twenty-one years or being granddaughters or a granddaughter, should attain that age or previously marry, and if more than one in equal shares as tenants in common. The testator left three grandchildren, only one of whom has attained the age of twenty-one years. The estate consists of real and personal property including a dwelling-house which the grandchild who is *sui juris*, desires to have by way of appropriation as part of her share in the estate. She therefore asks for an immediate assent of such property. In view of the residuary estate being in favour of a class and also in view of *In re Averill; Salsbury* v. *Buckle* [1898] 1 Ch. 523; L.J. Ch. 233, your opinion is desired as to whether the beneficiary is entitled to an assent by way of appropriation until the youngest grandchild has attained the age of twenty-one years. If this view is correct it is also desired to know whether in the absence of any special provisions to use the income for the common maintenance of the beneficiaries as a class in the will of the testator, the statutory provisions for maintenance and advancement have in any way affected the decision in the above-mentioned case with regard to the destination of income during minority of any of the grandchildren.

A. As the period of distribution is fixed at the attainment of the age of twenty-one by the grandchildren, upon any grandchild attaining that age he or she is entitled to payment of his or her immediately ascertainable share though the amount which will ultimately be taken remains contingent until the class is fully ascertained (*Andrews* v. *Partington* (1791), 3 Bro. C.C. 401; *Re Knapp; Knapp* v. *Vassall* [1895] 1 Ch. 91). The suggested appropriation would thus appear to be in order. A blended contingent residuary gift of real and personal estate carries intermediate income apart from recent legislation (*In re Dumble*, 23 Ch.D. 360), and it is now immaterial whether there has been a blending or not for both a contingent residuary bequest (*In re Taylor* [1901] 2 Ch. 134), and a contingent residuary devise (L.P.A., 1925, s. 175 (1)) carry the intermediate income. "Where there is a gift to trustees for a class contingently on attaining twenty-one, of a fund which carries the intermediate income, a member of the class who attains a vested interest is only entitled to the income of such share as he would be entitled to if the other members of the class should attain vested interests; and the income of those who still remain infants is applicable for their maintenance under sub-s. (1) of s. 31 of the T.A. (*Re Holford* [1894] 3 Ch. 30; *Re Jefferey* [1895] 2 Ch. 577, where North, J., reversed his prior decision in *Re Jefferey* [1891] 1 Ch. 671)." (See "Emmet's Notes on Perusing Titles," 12th ed., Vol. 2, p. 464.) The principle in *In re Averill* would still apply where the intermediate income is not carried, and it used not to be carried in the case of a contingent residuary devise (*Countess of Bective* v. *Hodgson* (1864), 10 H.L.C. 656). A contingent general legacy does not carry interest unless the testator is the parent of or *in loco parentis* to the legatee. The income of those who still remain infants will thus be available for their maintenance.

Acknowledgment by Two in favour of One of them, or by One Joint Custodian in Favour of the Other—Effect.

Q. 2768. A.B. made his will in 1932 and died in 1933. The will was proved by X and Y, two of his daughters. The will contained specific bequests of a dwelling-house to each of the two daughters X and Y, and of a dwelling-house to another daughter, Z. In the assent which is being prepared in favour of the daughter Z, the two personal representatives X and Y will give the usual acknowledgment for production of the probate. What should be done regarding the assents by the personal representatives in which they assent to the respective houses vesting in themselves individually? The probate is in their joint possession. Ought the matter to be left over until X and Y respectively subsequently sell (which may be years hence) and a separate acknowledgment then given, or would it be the correct procedure for X alone to give the acknowledgment in the assent to Y and *vice versa*, or should X and Y in their capacities as personal representatives give their acknowledgment in both the assents, i.e., to X and Y?

A. If reference is made to L.P.A., 1925, s. 64 (1), it will be seen that an acknowledgment only takes effect under the

statute "where a person retains possession of documents, and gives to another an acknowledgment in writing of the right of that other to production of those documents, and delivery of copies thereof . . ." Note the words "another" and "that other." It appears that the case of a person and another giving that person an acknowledgment is not provided for by the Act. Further, we do not think that an acknowledgment given by one of two joint custodians (even though executors) in favour of the other of them would operate under the Act, for the person giving it would not be the person retaining the deeds, which would be retained by the joint custodians. It thus appears that neither of our subscribers' suggestions would comply with the Act. It is probable that an acknowledgment by X in favour of Y and *vice versa* would have some effect apart from the Act, but the exact nature of the operation of such an acknowledgment outside the Act is somewhat obscure. Owing to the wording of L.P.A., 1925, s. 82, not any assistance can be obtained by way of a covenant or agreement (to be under the same obligations as if they could and had given an effective acknowledgment under the Act) by X and Y in favour of X and Y respectively. If our subscribers are not content to let matters stand until the properties are respectively sold (and this would not be very satisfactory) we suggest that in lieu of assents the properties be vested in X and Y respectively by way of conveyances, each conveyance being expressed to be of the property, together with such rights with regard to the production and delivery of copies of the probate of the will of the late A.B. as X and Y respectively would have obtained had X and Y been able to give, and had by the conveyance of each property given, to X and Y respectively an effective acknowledgment in respect of the probate.

Refusal of Local Authority to Pass Plans.

Q. 2769. A demolition order was made against a group of small cottages belonging to a client of ours. He has now submitted plans to the local authority for the erection of shops on the site of the cottages. The surveyor states that it is desirable to set back about 20 feet which would not only seriously reduce the area of the site but also be detrimental from a shop point of view. It has been discovered that there is in fact no prescribed building line, but the surveyor states that in due course a building line will be prescribed. The plans for the erection of the shops are meanwhile held up by the local authority who will not approve or disapprove them. It would appear, on the face of it, that in the absence of a prescribed building line, our client can, once the cottages are down, start to build at once right up to the point where the old building stood, and that if a building line is prescribed at a later date, as a result of which the shops would have to be set back, a claim for compensation would arise. In view of certain facts which need not be mentioned here, it is felt certain that the local authority realise that they have made an error and seek to remedy it by holding up the approval of the plans until they are able to get a building line prescribed. Can you put us on the right track to find out our client's rights or give us an opinion as to the effect of a building line being prescribed in similar circumstances.

A. If a local authority refuses to pass plans which are in accordance with the bye-laws, their refusal can be reviewed by mandamus: *R.* v. *Preston R.D.C.; Ex parte Longworth* (1912), 106 L.T. 37. A local authority may prescribe a new building line under s. 33 of Public Health Act, 1925, subject to paying compensation. The authority has, however, no authority to refuse to approve plans on the ground that a building line that may be prescribed in the future will be infringed, unless there is in force a resolution to adopt a planning scheme. If there is such a resolution s. 10 of the Town and Country Planning Act, 1932, will be applicable. Assuming no such resolution is in force, it is suggested that a threat to apply for a mandamus should be made.

In Lighter Vein.

THE WEEK'S ANNIVERSARY.

Those who like to believe that virtue is triumphant in this world, even outside theatrical performances, will reflect with pleasure on the life of Lord Justice Turner, of whom it was written that he "was one of those modest and retiring persons who owe their prosperity to no extraordinary incident in their lives nor to any political or extraneous interest but simply to their honest efforts to do their duty in that state of life to which it has pleased God to call them. Little, therefore, can be recorded to render his biography interesting beyond the important lesson that a steady reliance on providence will bless all human exertions, when accompanied by integrity of purpose and persistent intellectual industry." He was the youngest of the eight children of a Church of England clergyman, was called to the Bar in 1821, collaborated in a volume of law reports (Turner and Russell), took silk in 1840, went into Parliament in 1847, was appointed Vice-Chancellor in 1851, and two years later was promoted to the Court of Appeal. There, he carried on an excellent and effective partnership with Lord Justice Knight Bruce, his steadiness and gravity forming a striking contrast with the vivacity and dry humour of his brother judge. By an odd coincidence, death called them away practically together, for Knight Bruce died in November, 1866, and Turner on the 9th July, 1867.

AN INDIAN WARNING.

The evidence of Sir Michael O'Dwyer before the Joint Committee on Indian Constitutional Reform had some alarming aspects, particularly in regard to certain cases of bribery of high-placed judicial and executive officers in the Punjaub. Too many tales of such unofficial transactions come from the gorgeous East, but some of them are amusing. There was once a retired native magistrate in India who hit upon a simple and ingenious plan for supplementing his pension. When the Sessions Judge visited the district where he lived, he enjoyed an old Government servant's privilege of being received privately on making a formal call. By the regular performance of this social duty he earned a very substantial income, receiving heavy payments from half the litigants in the current cause list in consideration of his consenting to exercise his enormous influence with the judge in their favour. If his clients got judgment he, of course, took the credit, if not, then the other side must have got in first. There is another tale of a judge who was trying a Government servant for such gross misappropriation of Government funds that he thought it safe to wind up his summing up sarcastically: "If you, gentlemen of the jury, as men of business, believe that in similar circumstances you yourselves might have acted in a similar manner to the accused, you will give him the benefit of the doubt." To his horror and that of everyone who had business contracts with members of the jury, they acquitted in five minutes.

A BIGAMOUS LADY.

In the mouth of anyone but an eminent judge of the Central Criminal Court, the suggestion that a woman had "played havoc with a policeman's heart" would cry aloud for Sullivan's melodies to set it off. The manœuvres of the ingeniously bigamous lady to whom it was addressed, recalls a curious case found in "Sidferin's Reports." Cooper brought an action against Witham and his wife (Witham, I presume, being joined on the same principle as Mr. Hardy in the recent enticement case) for that the wife, maliciously intending to marry him, did often affirm that she was sole and unmarried and importuned *et strenue requisivit* the plaintiff to marry her, to which affirmation he gave credit and married her, when, in fact, she was wife to the defendant; so that the plaintiff was much troubled in mind and put to great charges and much

damnified in his reputation. He had a verdict, but no judgment, for, by Twisden, J., the action lies not, because the thing here done is felony, no more than if a servant be killed, the master cannot have an action *per quod servitium amisit quod curia concessit.*

Correspondence.

[*The views expressed by our correspondents are not necessarily those of* THE SOLICITORS' JOURNAL.]

Divorce of British Subjects in France.

Sir,—I have read with interest your contributor's report of the decision of the Paris Court of Appeal in the case of *Stewart* v. *Stewart and Niorthe.*

I notice that he fails to challenge the erroneous implication of the Procureur Général's speech and the judgment that there is such a thing as *English* nationality. Of course there is no such thing. If the French judge were to learn that his reference to the law of nationality might involve the application of one among a vast number of systems of law in the case of a British subject, and one among fifty in the case of an American citizen, and were requested to state which of these various systems was to be applied, he would be nonplussed. The main *raison d'être* of the doctrine of renvoi is to avoid this dilemma. Under the doctrine he would decide that the law applicable is the law by which the propositus is governed, having regard to his *British* nationality. It would then be for a British court or counsel learned in the law to say which of the various systems of law known to the British Empire was applicable to him; and assuming that the French courts rejected the application of the law of the actual domicil (by hypothesis France) the law of his domicil of origin would govern: *In re Johnson; Roberts* v. *Attorney General* [1903] A. Ch. 821.

Because of this awkward predicament in which French judges might otherwise find themselves, and also because the Court of Cassation has been generally faithful to the doctrine of renvoi, it is difficult to believe that it will be lightly abandoned.

So we may still expect to hear of divorces of British subjects in France, where the requisite jurisdictional facts are established even on grounds other than misconduct: *Bater* v. *Bater* [1906] P.D. 237.

It is pertinent to observe that art. 13 of the Civil Code referred to in the case of Annesley mentioned in your note has been repealed by a law of 10th August, 1927; so that the elements of domicil in France are now substantially the same as in England.

OLIVER E. BODINGTON,
President of the Association of Foreign Jurists, Paris.

Paris.
15th June.

[NOTE.—A further article by the contributor of the report referred to in the above letter appears on p. 476 of this issue. —ED., *Sol. J.*]

Solicitors Act, 1933: Draft Rules.

Sir,—Not so very long ago it required the threat of a requisition for a special general meeting of The Law Society to induce the Council to withdraw from their attitude of infallibility and agree to circulate the proposed rules among members as soon as such rules were in draft.

It is to be assumed that the Council regard the issue of the draft rules to the Press as a fulfilment of that pledge.

Draft r. 5 entitles the Council to appoint peripatetic inspectors calling on solicitors at odd times producing a requisition from The Law Society and demanding to go through the solicitors "books of account, bank pass books, statements of account, vouchers," etc.

The avowed object of this measure is preventive, i.e., to keep us all to the path of professional integrity and not merely to create another offence with which the already suspect may be charged, so that unless the Council is proposing to maintain an army of inquisitors conducting frequent inspections of all solicitors' books, the force of the rules is stultified by the absence of any real safeguard that they are day-in and day-out adhered to in practice by the whole profession.

The requirement of the production of an accountant's certificate that the books have been examined and that they are in order, and the rules complied with as a condition precedent to the renewal of a practising certificate, would afford the public the protection this Act was intended to provide, but the absence of this obvious regulation in the draft rules is an indication that a considerable number of solicitors do not employ auditors and that the Council has yielded to their clamour.

It is to be hoped that in the public interest the Master of the Rolls will insist on this essential safeguard being incorporated before the Rules are finally approved.

Is it merely a coincidence that these rules are published too late for them to be discussed at The Law Society's Annual General Meeting on the 7th inst?

Bedford-row, W.C.1. G. W. FISHER.
3rd July.

Involuntary Bailment.

Sir,—I should be interested if you would carry your remarks on this subject a little further. What is the position if the enterprising tradesman fails to collect the goods? Must the involuntary bailee give them storage room for ever?

If I were advising a client in these circumstances I should be inclined to say: "Write to the tradesman giving him a reasonable time, say, one week, in which to collect his goods, failing which you will consign them to the dust-bin."

Would my advice be good?

King's Bench Walk, H. TYRRELL LEWIS.
Temple, E.C.4.
19th June.

[We shall be interested to hear our readers' views on this matter.—ED., *Sol. J.*]

Solicitors and Building Societies.

Sir,—No doubt other solicitors have received pamphlets from building societies advertising that their solicitors are prepared to carry out conveyances at anything from £2 2s. up to £6 6s. for £1,500 purchase.

We have just received a similar prospectus and cannot see any difference between this and a firm of solicitors advertising in the daily press that they are prepared to carry out conveyances at these ridiculous fees. This type of advertising is very lowering to the profession. A heavy annual duty is payable by a solicitor for practising and for this, no doubt, he expects to receive certain advantages—is it not time that this method of advertising were stopped?

Another complaint is that corporations and other bodies, who retain the sole services of a solicitor as a servant, are entitled to receive any profit costs they may make for carrying on what we consider to be a solicitor's practice. This also, in our opinion, is opposed to the decision in *Re Galloway*, and is a practice which should be deprecated and prevented.

We should like to receive the comments of solicitors on the two cases above referred to, as if necessary a joint effort should be made to see what steps in the circumstances The Law Society is prepared to take.

Soho-square, W.1. A. E. HAMLIN, BROWN & CO
26th June.

Reviews.

The Constitution of Northern Ireland. Part II. By Sir Arthur S. Quekett, LL.D., one of His Majesty's Counsel in Northern Ireland. 1933. Demy 8vo. pp. xliii and (with index) 660. Belfast: H.M. Stationery Office. 31s. 6d. net.

Sir Arthur Quekett is to be warmly congratulated on the completion of Pt. II of his great work, which by a happy coincidence makes its appearance concurrently with the formal opening by the Duke of Abercorn of the new Law Courts for Ulster. In 1928, when Pt. I was published, we called attention to its lucid arrangement and to the admirable view it afforded of the character and tendencies of the Constitution of Northern Ireland; and the work, then so auspiciously begun, is now rounded off by the collection of the statutes upon which the Constitution rests, namely, the Government of Ireland Act, 1920, and the numerous subsequent enactments which have affected that measure. These later Acts, as Sir Arthur points out, accomplished the transition from the original project to the constitution of Northern Ireland as it exists to-day. In the elaborate annotation of the various measures, the learned author has not limited himself to what may be called the purely legal points which emerge, although of course these receive the fullest treatment, but he has felt himself free to include much historical matter which adds immensely to the general interest and value of the work. On s. 1 of the Act of 1920, for example, we find notes on the first meeting of the Parliament, the formal opening by His Majesty, the election of senators, and the declaration of causes of calling the Parliament. Again—and here we have guidance for the constitutional lawyer—on s. 4, which lays down the limits within which the legislative powers of the Parliament are exercisable, references are given to a number of Canadian cases which came to the Privy Council where the principles are stated upon which a court will act in inquiring into the validity of a law where the power of the legislative body is subject to statutory restrictions of the nature of those contained in the section under consideration. On s. 49, which says that an appeal lies from the Court of Appeal in Northern Ireland to the House of Lords in certain cases, we are given an exceedingly instructive but brief historical excursus on the conflict of jurisdiction that arose in the eighteenth century between the House of Lords in Ireland and the House of Lords of Great Britain which culminated in the passing of an Act affirming the proposition "that the House of Lords of Ireland have not, nor of right ought to have, any jurisdiction to judge of, affirm, or reverse any judgment, sentence, or decree given or made in any court within the said kingdom" [of Ireland]. This Act, we are further reminded, remained in force till 1782, when it was repealed, and thereafter till 1800 the Irish House of Lords exercised jurisdiction, but of course with the disappearance of the Irish Parliament in the latter year the Irish House of Lords went with it and appeals henceforth lay from the Irish Courts to the House of Lords sitting at Westminster, and as we see still lie from Northern Ireland under s. 49.

While all the statutes included in the volume may not lend themselves to historical treatment such as those to which we have called attention, they have been annotated with great care and with special attention to their practical utility, the editorial commentaries being rendered readily accessible by an excellent and very full index running to fifty-five pages. The two parts of the work, which are a valuable addition to the literature of constitutional law, should find a place in every well-equipped library.

Books Received.

Depreciation Reconsidered. By Stanley W. Rowland, LL.B. (Lond.), F.C.A. 1933. Demy 8vo. pp. 47. London: Gee & Co. (Publishers), Ltd. 2s. 6d. net.

Notes of Cases.

House of Lords.

Wemyss Coal Co. Limited *v.* **Haig.** 27th June.

Workmen's Compensation—Industrial Disease—Medical Referee—Certificate—Alteration of Date of Disablement—Workmen's Compensation Act, 1925, s. 43 (1) (*f*).

This was an appeal from an interlocutor of the Second Division of the Court of Session, Scotland (Lord Murray dissenting), in a case stated from the Sheriff Court of Fife and Kinross. The questions for the opinion of the court on the case stated were: (1) Under the provisions of the Workmen's Compensation Act, 1925, and particularly s. 43, had the medical referee power to alter the date fixed by the certifying surgeon as the date of the beginning of disablement from the disease (dermatitis) from which the claimant suffered? (2) In the circumstances was the arbitrator entitled to give effect to the certificate of the medical referee? The Court of Session by a majority answered both questions of law in the negative, and the Wemyss Company now appealed.

Lord Atkin, in giving judgment, said that the principal question was one of general interest. Notwithstanding the respect which he held for the opinions of the judges who formed the majority in the Court of Session he entertained no doubt, after full consideration of the matter, that the opinions of the Sheriff Substitute and Lord Murray were right, and that the questions should be answered in the affirmative. Speaking for himself he had little doubt that the expression mentioned in s. 44 (1) as to the disease not being the result of the employment was equally a matter for the medical referee if the certifying surgeon had expressed such an opinion. The decision in *McGinn* v. *Udston* [1912] S.C. 668, at least went as far as that, and to that extent at least should be followed. He could find no support for the respondent in the fact that the provision as to fixing the date was found in sub-s. (2), not in sub-s. (1). Wherever it was to be found it in fact provided part of the context of the certificate and it was the certificate as a whole which was subject to appeal. When powers were granted by the legislature to an investigating authority subject to an appeal they were usually granted in terms to the authority in the first instance and not to the appeal authority. The latter's powers were neither greater nor less because original powers were not expressly given to him. The result was to give an appeal to employer and workmen alike on a medical matter which concerned them both in respect of which there appeared no reason for dissociating the question of disablement from the question when the disablement began. He thought that both questions should be answered in the affirmative and the appeal allowed with costs there and below.

Lords Warrington, Thankerton, Wright and Macmillan agreed.

Counsel: *T. M. Cooper*, K.C., and *A. G. Erskine Hill*; *A. P. Duffes*, K.C., *W. Ingram*, K.C., and *F. C. Watt*.

Solicitors: *Beveridge & Co.*, for *Wallace Begg & Co.*, W.S., Edinburgh, and *J. M. Davidson*, Glasgow; *H. S. L. Pollak* for *W. Steele Nicol*, S.S.C., Edinburgh, and *W. Philip*, Kirkcaldy.

[Reported by S. E. Williams, Esq., Barrister-at-Law.]

Court of Appeal.

Ward *v.* **Dorman, Long & Co. Ltd.**

Lord Hanworth, M.R., Lawrence and Slesser, L.JJ. 20th June.

Workmen's Compensation—Fatal Accident to Workman—Claim by Dependents—Adopted Child—Not Member of Workman's Family entitled to Compensation—Workmen's Compensation Act, 1925 (15 & 16 Geo. 5, c. 84), s. 4—Adoption of Children Act, 1926 (16 & 17 Geo. 5, c. 29), s. 5.

Appeal from the judge at Durham County Court, sitting as arbitrator under the Workmen's Compensation Act, 1925.

On 3rd January, 1933, William Ward died as the result of an accident while working for Dorman, Long & Co., Ltd. He left a widow and an adopted daughter, Gladys, who was born on 24th August, 1929, and who had been adopted by William Ward and his wife jointly in accordance with the provisions of the Adoption of Children Act, 1926, a decree of adoption to that effect, dated 29th November, 1932, having been made by the Petty Sessional Court of Bishop Auckland. The employers admitted liability for compensation in respect of the widow, and paid £300 into court, but they did not admit liability in respect of Gladys. It was agreed that, in the event of her being entitled to claim, her share would be £182. The county court judge thought that by the provisions of the Adoption of Children Act, 1926, an adopted child was, for all purposes, to be a child of the adopter as if born to him in lawful wedlock. He therefore thought that Gladys was entitled to claim as a dependent, within the scope of s. 8 of the Workmen's Compensation Act, 1925, and made an award for the whole sum of £482. The employers appealed. The court allowed the appeal.

Lord HANWORTH, M.R., said that s. 4 of the Workmen's Compensation Act, 1925, laid it down that the dependents of a workman under the purview of the Act were "such of the members of the workman's family" as were dependent on him at his death, with a provision that illegitimacy of a child or grandchild dependent was not to be a bar. And sub-s. (3), unless the context otherwise required, defined "member of a family" as "wife or husband, father, mother, grandfather, grandmother, stepfather, stepmother, son, daughter, grandson, granddaughter, stepson, stepdaughter, brother, sister, half-brother, half-sister." It would be observed that that was a very wide definition. In *Shotts Iron Co., Ltd.* v. *Curran* [1929] A.C. 409, the House of Lords clearly indicated that the court in those cases must go back to the test laid down by s. 4 to see who was and who was not a member of the workman's family. It was contended that this adopted child could be held to be a member of the family within the test by reason of s. 5 (1) of the Adoption of Children Act, 1926, which enacted that, on the making of the adoption order, all rights, duties, obligations and liabilities of the parent were extinguished and were vested in the adopter "as though the adopted child was a child born to the adopter in lawful wedlock." That section did not say *simpliciter* that the child would be deemed to be the child of the adopter for all purposes, or with relation to third parties; it dealt specifically with the relation between adopter and adopted child. Also, for certain purposes, the child was still to be entitled to certain rights from its natural father; for by sub-s. (2) it was still to be entitled to any right or interest in property to which, but for the order, it would have been entitled under an intestacy or disposition, and the expressions "child," "children," or "issue" used in a disposition were not, unless a contrary intention appeared, to include an adopted child. Sub-section (5) referred to the position of an adopted child with regard to certain enactments relating to friendly societies, collecting societies, and industrial assurance companies. The sub-section did not refer to the Workmen's Compensation Acts, or say that an adopted child was, for the purposes of those Acts, to be a member of the workman's family. The silence was significant in a section which dealt specifically with certain enactments and left out others. The court could not take the view that the adopted child was a member of the workman's family within the purview of s. 4 of the Workmen's Compensation Act, 1925, and the appeal would, therefore, be allowed.

Lords Justices LAWRENCE and SLESSER gave judgments to like effect.

COUNSEL: *Shakespeare*, for the appellants; *J. Charlesworth*, for the respondents.

SOLICITORS: *Gregory, Rowcliffe & Co.*, for *Cooper & Jackson*, Newcastle-on-Tyne; *Sayer, Ledgard & Smith*, for *Thomas Jennings*, Bishop Auckland.

[Reported by G. T. WHITFIELD-HAYES, Esq., Barrister-at-Law.]

High Court—King's Bench Division.

Fairholme *v.* Thomas Firth and John Brown, Ltd.

Du Parcq, J. 31st May.

CONTRACT—SERVICE AGREEMENT—BROKEN BY EMPLOYER—AGREED DAMAGES—EMPLOYER NOT ENTITLED TO DEDUCT INCOME TAX EMPLOYEE WOULD HAVE HAD TO PAY.

In this action the plaintiff, F. C. Fairholme, had claimed from the defendants, Thomas Firth and John Brown, Ltd., damages for wrongful dismissal. The defendants, who had admitted liability, now contended that from the agreed damages of £18,000 they were entitled to deduct income tax and/or surtax which the plaintiff would have been liable to pay if the contract had not been determined, and contended that unless the deduction in respect of tax was made the plaintiff would receive something more than his pecuniary loss.

DU PARCQ, J., said that by an agreement, dated the 29th June, 1931, the defendant company agreed to employ the plaintiff as a joint managing director for $4\frac{3}{4}$ years certain from the 1st January, 1931, at a salary of £8,500 a year. On the 29th August, 1932, the defendants determined the plaintiff's employment for business reasons, and without lawful justification. They recognised their liability to compensate him. The only dispute between them was as to the measure of damages, and the parties had agreed that the damages should be £18,000. The question whether any sum awarded to the plaintiff by way of damages in the action was liable to income tax and/or surtax was not argued before him. Without deciding that point, he (his lordship) assumed that it was not so liable. The defendant company contended that to arrive at a figure which truly represented the plaintiff's pecuniary loss it was necessary to deduct from the £18,000 the sum which the plaintiff would have had to pay by way of income tax and/or surtax on his annual remuneration if the contract had not been determined. It was argued that unless that deduction was made the plaintiff would receive something more than his pecuniary loss. He (his lordship) had come to the conclusion that in assessing the damages that suggested deduction ought not to be made. The incidence and extent of the tax were matters between the Crown and the employee, and were no concern of the employer. Parliament might have provided, and might yet provide, that sums awarded as compensation for loss of income should themselves be subject to taxation. The function of the judge was at an end when there had been awarded to the plaintiff the equivalent of such salary as there was reasonable ground for thinking that he would have earned if the contract had not been broken. If he were wrong in that view, it must follow that excessive damages had been awarded for many years, not only in actions for wrongful dismissal, but in other actions where a plaintiff had been prevented from earning wages or salary through the breach of contract, or tort, of a defendant. He would be reluctant to give a decision which would seek to alter an inveterate practice unless he were convinced that the practice was inconsistent with principle and unjust. He was not so convinced in the present case. On the contrary, he was of opinion that it was right in principle, in assessing damages as between master and servant, to have no regard to the servant's liability to the Crown, which was truly *res inter alios acta*. He did not think, therefore, that the liability for income tax and/or surtax could be taken into account in assessing the damages. Judgment for the plaintiff for £18,000, and costs. A stay of execution was granted, £10,000 to be paid at once to the plaintiff, the balance to be deposited in the joint names of the solicitors.

COUNSEL: *Stuart Bevan*, K.C., and *S. H. Smith*, for the plaintiff; *D. B. Somervell*, K.C., *Rodger Winn* and *T. N. Donovan*, for the defendants.

SOLICITORS: *Woodcock, Ryland & Parker; Linklaters and Paines.*

[Reported by CHARLES CLAYTON, Esq., Barrister-at-Law.]

Court of Criminal Appeal.

R. *v.* Germaine Larsonneur.

Lord Hewart, C.J., Avory and Humphreys, JJ. 29th May.

Criminal Law—Alien—Found in United Kingdom after Deportation Order—Returned in Custody from Irish Free State—Detained by Police—Aliens Order, 1920, Arts. 1 (3) (*g*), (4) and 18 (1) (*b*) (*a*).

This was the appeal against conviction of Germaine Larsonneur.

The appellant was charged on the 10th May, 1933, at London Sessions on an indictment containing two counts, the first charged her that "on the 22nd day of March, 1933, in the County of Surrey being an alien failed to comply with a condition imposed by the Secretary of State, to wit to leave the United Kingdom." The second count charged that "on the 21st day of April, 1933, in the County of Anglesey, being an alien to whom leave to land in the United Kingdom has been refused was found in the United Kingdom." The appellant, who was a French subject, landed at Folkestone on the 11th March, 1933, with a French passport, which was endorsed as follows: "Leave to land granted at Folkestone this day on condition that the holder does not enter any employment, paid or unpaid, while in the United Kingdom." On the 22nd March, 1933, the condition was varied by an endorsement signed by an Under-Secretary of State to the effect that the appellant was required to depart from the United Kingdom not later than the 22nd March, 1933. The appellant went to the Irish Free State on that date. On the 20th April, 1933, under an order for her deportation from the Irish Free State made by the executive of that country, she was brought back in the custody of the Irish Free State police to Holyhead and handed over to the police there, where she was detained until a police officer arrived from London. She was taken to London in custody, and was charged before a police magistrate there on the 22nd April. The chairman ruled that the Irish Free State was not part of the United Kingdom for the purposes of the first count of the indictment and that there was no case to go to the jury on that count. On the second count the jury returned a verdict of "Guilty through circumstances beyond her own control," and the chairman passed a sentence of three days' imprisonment and made an order recommending the appellant for deportation. She now appealed.

Lord Hewart, C.J., giving the judgment of the court, stated the facts and said that in circumstances which were perfectly immaterial, so far as this appeal was concerned, the appellant came back to Holyhead. She was at Holyhead on the 21st April, 1933, a day after the day limited by the condition on her passport. In those circumstances, it seemed to him to be quite clear that Art. 1 (4) of the Aliens Order, 1920 (as varied by the Orders of the 12th March, 1923, and the 29th June, 1931), applied. His lordship read the article and said that the appellant was therefore, on the 21st April, 1933, in the position in which she would have been if she had been prohibited from landing by the Secretary of State and, that being so, there was no reason to interfere with the finding of the jury. She was found here, and was, therefore, deemed to be in the class of persons whose landing had been prohibited by the Secretary of State, by reason of the fact that she had violated the condition on her passport. The appeal was dismissed and the recommendation for deportation remained.

Counsel: *Marston Garsia*, for the appellant; *J. F. Eastwood*, for the Crown.

Solicitors: *Addis & Co.; Wontner & Sons.*

[Reported by Charles Clayton, Esq., Barrister-at-Law.]

Mr. Frederick Lake Walker, solicitor, of Hundleby, Lincs, left £46,199, with net personalty £31,139.

TABLE OF CASES previously reported in current volume—Part II.

Obituary.

Dr. A. H. COLEY.

Dr. Alfred Henry Coley, retired solicitor, of Birmingham, and a former President of The Law Society, died at Alvechurch, Warwickshire, on Thursday, 29th June, in his seventy-fourth year. Educated at Wycliffe School, Birmingham, Mr. Coley served his articles with the late Mr. Barnabas Chesshire, and was admitted a solicitor in 1886. He had been a member of the Committee of the Birmingham Law Society since 1888, and in 1912–14 he was President of that Society. He was elected a member of the Council of The Law Society in 1908. He was chairman of the County Court Committee, and a member of the Legal Education and Poor Persons Procedure Committees. He served as a member of the committee, appointed by the Lord Chancellor in 1926, to consider and report on the arrangement and distribution of the County Court circuits, districts and court centres, which reported in 1929. He was also a member of the two committees appointed to consider and report on the Poor Persons Rules, and of the committee, of which Mr. Justice Finlay was chairman, appointed to consider the subject of legal aid for the poor. In addition he was a member of the Statutory County Court Rules Committee. Mr. Coley was elected President of The Law Society when the Provincial Meeting was held at Birmingham in 1926, and the honorary degree of Doctor of Laws was also conferred upon him by Birmingham University. He had always been interested in legal education, and it was in recognition of his services in that connection that the degree was conferred upon him. Dr. Coley remained a member of the Council of The Law Society until quite recently, when ill-health caused him to retire.

Mr. A. E. COWL.

Mr. Arthur Edwin Cowl, solicitor, senior partner in the firm of Messrs. Arthur E. Cowl & Son, of Yarmouth, died suddenly on Tuesday, 27th June, at the age of eighty-one. Mr. Cowl was born at Hull, and served his articles with Mr. J. A. Parnfield, of London. He was admitted a solicitor in 1873, and had practised at Yarmouth from that year until the date of his death. He was a prominent Free Churchman, and had been Church Secretary since 1884.

Mr. L. P. FENNER.

Mr. Leonard Pleasants Fenner, solicitor, of Yarmouth, died recently. Mr. Fenner was admitted a solicitor in 1894.

Mr. J. J. FORSTER.

Mr. John J. Forster, O.B.E., retired solicitor, of Carlisle, died on Thursday, 29th June, at the age of eighty. He was admitted a solicitor in 1895, and for some years he was with Messrs. Saul, solicitors, of Carlisle. On the death of Mr. S. G. Saul, Mr. Forster commenced to practise on his own account. He retired about a year ago. He was awarded the O.B.E. for his work during the war as Hon. Secretary of the Prisoners of War Department of the Carlisle Citizens' League. Mr. Forster was also for many years a member of the Carlisle City Council.

Mr. A. HALSALL.

Mr. Arthur Halsall, solicitor, of Birkenhead, died recently at the age of fifty. Educated at Birkenhead, Mr. Halsall served his articles with the late Mr. G. F. Lees, of Birkenhead,

and was admitted a solicitor in 1916. He joined Mr. Walter H. Reinhardt in 1919, and later went into partnership with him. He took over the practice about four years ago, and had since carried on as Messrs. A. Halsall & Co.

MR. G. H. HEELIS.

Mr. Guy Hopes Heelis, solicitor, and Town Clerk of Appleby, died suddenly at his home at Appleby on Friday, 30th June, at the age of forty-two. Mr. Heelis was admitted a solicitor in 1920, and was a partner in the firm of Messrs. E. & E. A. Heelis, of Appleby. He had succeeded his father in the office of Town Clerk of Appleby.

MR. J. L. MORGAN.

Mr. John Lewis Morgan, solicitor, of Cardiff, died recently at Southerndown, at the age of forty-nine. Mr. Morgan, who was born at Penarth, was admitted a solicitor in 1911, and was at one time with Messrs. Morgan, Bruce & Nicholas, of Pontypridd.

MR. J. H. STOTT.

Mr. John Horace Stott, solicitor, of Rochdale, died on Wednesday, 28th June, at the age of fifty-five. Mr. Stott was admitted a solicitor in 1899, and held the offices of Clerk to the Whitworth and Wardle Urban District Councils.

Parliamentary News.

Progress of Bills.

House of Lords.

Agricultural Marketing Bill.
In Committee. [29th June.

Blind Voters Bill.
Read Third Time. [29th June.

British Nationality and Status of Aliens Bill.
Read Second Time. [4th July.

Cotton Industry Bill.
Read Second Time. [4th July.

Frimley and Farnborough District Water Bill.
Read Third Time. [29th June.

Grosvenor Estate Bill.
Read Third Time. [29th June.

Knutsford Light and Water Bill.
Reported, with Amendments. [4th July.

Leeds Corporation Tramways Provisional Order Bill.
Reported, without Amendment. [4th July.

London County Council (Money) Bill.
Read Second Time. [5th July.

Manchester Royal Infirmary Bill.
Read Second Time. [4th July.

Manchester Ship Canal Bill.
Read Second Time. [5th July.

Marriages Provisional Order Bill.
Read Second Time. [4th July.

Mersey Tunnel Bill.
Read Third Time. [4th July.

Ministry of Health Provisional Order Confirmation (Ely, Holland and Norfolk) Bill.
Amendments reported. [5th July.

Ministry of Health Provisional Order Confirmation (South Somerset Joint Hospital District) Bill.
Read Third Time. [5th July.

Ministry of Health Provisional Order Confirmation (Wath, Swinton and District Joint Hospital District) Bill.
Amendments reported. [5th July.

Ministry of Health Provisional Order (Street) Bill.
Read First Time. [4th July.

Municipal Corporations Audit Bill.
Read Third Time. [4th July.

Nottinghamshire and Derbyshire Traction Company (Trolley Vehicles) Provisional Order Bill.
Read Second Time. [29th June.

Pier and Harbour Provisional Orders (Elgin and Lossiemouth and Southwold) Bill.
Read First Time. [4th July.

Plympton St. Mary Rural District Council Bill.
Read Second Time. [29th June.

Rent and Mortgage Interest Restrictions (Amendment) Bill.
Amendments Reported. [5th July.

Sidmouth Urban District Council Bill.
Read Third Time. [4th July.

Summary Jurisdiction (Appeals) Bill.
Amendments reported. [29th June.

Trout (Scotland) Bill.
Amendment reported. [5th July.

University Degrees Bill.
Read First Time. [29th June.

House of Commons.

Bootle Corporation Bill.
Reported, with Amendments. [5th July.

Cancer Hospital (Free) Bill.
Read Third Time. [5th July.

Canterbury Extension Bill.
Reported, with Amendments. [29th June.

Colne Corporation Bill.
Read Third Time. [5th July.

Dearne District Traction Bill.
Reported, with Amendments. [29th June.

Dundee Harbour and Tay Ferries Order Confirmation Bill.
Read First Time. [29th June.

Electricity (Supply) Bill.
Read First Time. [29th June.

Frimley and Farnborough District Water Bill.
Lords Amendments agreed to. [3rd July.

Grosvenor Estate Bill.
Read First Time. [29th June.

Local Government and Other Officers' Superannuation (Temporary Provisions) Bill.
Read Third Time. [5th July.

London County Council (Money) Bill.
Read Third Time. [29th June.

London Overground Wires, &c., Bill.
Reported, with Amendments. [29th June.

Middlesbrough Corporation Bill.
Read Second Time. [3rd July.

Ministry of Health Provisional Order Confirmation (Luton Water) Bill.
Read Second Time. [5th July.

Ministry of Health Provisional Order Confirmation (South Somerset Joint Hospital District) Bill.
Read First Time. [5th July.

Ministry of Health Provisional Order Confirmation (Wrexham and East Denbighshire Water) Bill.
Read Second Time. [5th July.

Ministry of Health Provisional Order (Stourbridge) Bill.
Reported. [3rd July.

Ministry of Health Provisional Order (Street) Bill.
Read Third Time. [3rd July.

Ministry of Health Provisional Orders (Bath and Bury and District Joint Water Board) Bill.
Lords Amendments agreed to. [29th June.

Ministry of Health Provisional Orders Confirmation (Maidstone and Stockton-on-Tees) Bill.
Read Second Time. [5th July.

Pier and Harbour Provisional Orders (Elgin and Lossiemouth and Southwold) Bill.
Read Third Time. [3rd July.

Protection of Birds Bill.
Read Second Time. [29th June.

Rugby Corporation Bill.
Reported, with Amendments. [29th June.

Salford Corporation Bill.
Read Second Time. [3rd July.

Torquay and Paignton Tramways (Abandonment) Bill.
Reported, with Amendments. [29th June.

Wigan Corporation Bill.
Reported, with Amendments. [5th July.

Wimbledon Corporation Bill.
Reported, with Amendments. [4th July.

The Law Society.

INTERMEDIATE EXAMINATION.

The following candidates (whose names are in alphabetical order) were successful at the Intermediate Examination held on the 14th and 15th June, 1933. A candidate is not obliged to take both parts of the Examination at the same time.

FIRST CLASS.

Geoffrey Noden Bell, Edmund Valentine Chiswell, Aslan Lionel Hamwee, B.A. Oxon, B.A. Manchester, Richard Ashby Jolley, William Geoffrey Ronald Oates.

PASSED.

John Evelyn Beadon Adams, Geoffrey Fraser Aronson, William Michael Baker, Eustace Sweeting Barnes, Sydney Corbin Nicholls Beavan, Stanley Belfield, Arthur Henry Bloch, Horace Alexander Callander Bourne, Michael Casey, Allen Thomas Richard Clark, Basil Graham Morris Codd, Geoffrey Cohen, Yolanda Nathalie Marie Felicite Coralie Angele Compton, Donald Brodby Cumming, Ronald Frederick Darrell, Thomas Richard Edgar Ennion, Edward Aidan Griffith Evans Bernard Fielding, Richard Byrne Gale, Geoffrey Chapman Godber, Alan Arthur Edward Gooding, John Eveleth Guest, Maurice Juniper Guymer, Robert Bousfield Hamilton, B.A. Oxon, Patrick Birkett Harris, Arthur Graham Harrison, Lemon Evelyn Oliver Turton Hart, Lilian Mary Hollowell, Archibald Thomas Hood, Leonard Alexander Hope, Robert Moran Hoyle, Frederick Newey Huggins, M.A. Oxon, Alfred Ernest Jones, Emrys Jones, Cyril Robert Kaile, John Kennedy, Norman Walters Leigh, Arthur Reginald Cox Marler, John Sydenham Marshall, Cedric Bradford Maxted, Donald Field Metcalfe, Walter Frederick Morris, Charles Duncan Munro Kenneth Gilbert Nightingale, Percy John Pepler, Hugh Aylmer Pryse Phillips, B.A. Oxon, Ellis Fisher Pinkney, Charles Grahame Porter, Reginald John Proudfoot, Gilbert Stanley Nowell Richards, Frederick William Roberts, William Solomon Sedley, B. Com., B.Sc. London, John Birkmyre Shankland, Carmen Irene Simpson, Dorothea Marie Sims, William Legh Egerton Smith, Sydney Hepburn Thompson, Harold Turner, James Wainwright, Dudley James Ward, Leslie Carnaby Weatherall, William Ewen Whitwell, Leslie John Williams, Howard Guy Wootton.

The following candidates have passed the Legal Portion only:—

William Stuart Addiscott, William Frederick Alborn, Douglas Hubert Andrew, B.A. London, Harold Samuel Arscott, Henry Sykes Balls, Colin Browne Barber, Thomas John Francis Bayfield, Richard James Beaven, Francis Cecil Leonard Bell, William McKnight Bell, Wilfred Lidderdale Biddle, Abraham Bluestein, Alfred John Booth, M.A. Cantab., Percy Wilfred Theodosius Boughton-Leigh, B.A. Cantab., John Fergrieve Brown, Vincent George Buckley, John Alan Carpenter, Norman Vincent Carpenter, Douglas Patrick Levis Carslaw, Maurice Fitzgerald Carter, Nigel Jasper Chambers, Michael Christopher Chaplin, Ronald Biot Clayton, Arthur Cobby, Mary Eileen Conday, Leonard Malcolm Cooper, Eric William Cule, Richmond Wynne Dauncey, Wilfred John Dawe, George Francis Heffernan Dennehy, Sidney Bernard Eales, Alfred John Leslie Ekins, Russell Evans, Christopher Alsop Eyre, Richard Frederick Fairbairn, B.A. Cantab., Harcourt Bellew Montague Falck, John Gabe Farr, Edgar Warwick Fedden, B.A. Cantab., Leslie John Noble Fisher, Peter Derek Foard Franks, John Corscaden Gamble, John Marcus Garforth-Bles, John Wilson Gauntlett, Wilfred Henry Gibbs, Alan George Gilbert, Owen Stanley Foot Goodman, Jeffrey Graham, John Edward Hatt-Cook, James Brian Dawson Haynes, Thomas Oswald Lascelles Heron, Eric Austin Hind, Peter Hoare, Samuel Spencer Hosegood, Ralph Hacking Hulme, Robert Arbuthnot Hunter, B.A. Oxon, Edward John Inch, Leslie Wearing Jackson, Sidney Jaque, John Tegryd Jones, Vivian Royson Jones, Roger Thomas Halliwell Kevill, Gershon Levy, Ellis Lincoln, Arthur Stanley Llewellyn, M.A. Cantab., William Ewart Lloyd, Robert Arthur Luker, Edward Herbert Lyde, John Mair McCrea, George Francis Medlam, Henry Miller, B.A. London, Richard Frederick Samson Orchard, Thomas Glyn Owen, Philip Geoffrey Padmore, Ronald Jamieson Parker, Arthur Lloyd Parry, John Stewart Philpot, Arthur Langdon Joseph Prime, Evan Wynne Roberts, Charles Philip Robinson, Nigel James Neale Robinson, Michael James Rogers, B.A. Cantab., Charles Rosin, Gordon Pearse Russell, B.A. Cantab., Leslie Frederick Saunders, James Smith, Cyril Alfred Stocken, Philip Noel Stollard, Frederick Lewis Tait, Arthur William Taylor, John Barrington Taylor, Gordon Mervyn Tiffin, Kathleen Trafford Tomlinson, Elizabeth Ann Turner, Henry Philip Verey, B.A. Cantab., Norman Vincent, Frederick Chisnell Wallis, Thomas Godsalve Ward, Robert Victor Bertram Webb, Roger Andrew Weeley, Lester Percival Whatley, M.A. Oxon, Malcolm Hele Wheeler, B.A. Oxon, Herbert Wilkinson, Roger Patrick Clason Williams, Robert Archibald Wolverson, B.A. Cantab., William Peter Wood, James Edward Woodroffe, B.A. Oxon, Eric Maitland Woolf, John Russell Woolford, Bryans Brunswick Wright, Charles Gordon Wright, Charles Alan Oscar Lindsay Ziegler, B.A. Cantab.

Number of Candidates, 332. Passed, 180.

The following candidates have passed the Trust Accounts and Book-keeping portion only:—

James Alexander Abbott, B.A. Oxon, Clarence Humphrey Armitage, B.A. Cantab., Ernest Aubrey Aspinwall, George Cuthbert William Barker, Frank Wightman Batchelor, Arthur Campbell Beevor, B.A. Cantab., Alfred Lovell Berridge, Michael Percy George Bowman, Norman Alexander Brackenbury, Charles Daubeney Brandreth, Alan John Brown, B.A. Cantab., Edward Cooper Bryan, LL.B. Birmingham, James Ridler Buchanan, Gilbert Patrick Bumstead, Vernon Osbart Douglas Cade, Frederick John Camenisch, B.A. Oxon, Anthony Moseley Channer, Anthony Michael Chorlton, LL.B. Manchester, Norman Stanley Clare, William Arnold Clarke, Mason George Cockshott, B.A. Cantab., George Brian Collinson, Geoffrey Cook, B.A. Cantab., Gordon Cumming, John Kenneth Hutt Cunningham, Daniel Humphreys Davies, LL.B. Wales, Henry Ralph Davies, Hubert Edwin Davies, Gilbert Peter Daynes, Alan Dean, John Gilbert Dean, Edward Hickling Dixon, John James Darbey Duke, Dudley Vavasour Durell, B.A. Cantab., Amos Eastham, Thomas Webster Fagg, Edward Hall Footit, B.A. Cantab., Gilbert Gordon Gartside, Freda Gaukroger, Mark Asty George, Neville Gill, Raymond Claridge Gill, Sydney Gordon, William Henry Grant, Geoffrey George William Grazebrook, B.A. Cantab., Harry James Green, Frank Mallalieu Hamer, Dorothy Heaton, Arthur Maurice Hill, B.A. Oxon, Charles Norman Hodder, Thomas Cyril Hornby, Henry Griffin Howard-Watson, LL.B. Liverpool, Tudor Howard-Williams, B.A. Cantab., Thomas Graham Vincent Johns, Ethel Millicent Kirk, Joseph Labovitch, LL.B. Leeds, Andrew Filz Laird, B.A. Cantab., Mordecai Landy, Herbert William Larkin, Jack Levi, LL.B. Leeds, Frank Edwin Hyman Levinson, B.A. Cantab., Geoffrey Gordon Lewis, Reginald Hardinge Lloyd-Jones, B.A. Oxon, David Glyndwr Meredith, B.A. Wales, Gerald Michael, Dennis Gordon Moore, John Fenwick Moore, William John Vernon Morgan-Griffiths, John Ronald Lewis Nicholson, M.A. Cantab., Adam Henry Williams Petre Norton, B.A. Oxon, Francis Dudley Offer, B.A. Cantab., Alfred Ogle, Cecil Aubrey Parker, Harold Pawson, Niel Gunn Crosfield Pearson, B.A. Oxon, John Bradley Pine, Elwyn Price, Walter Arbuthnot Prideaux, B.A. Cantab., Shirley Rayner, Douglas Maclennan Renton, M.A. Oxon, Leonard Eddington Rickards, B.A. London, Stuart Kerfoot Roberts, James Roe, Gilbert Leslie Shepherd, Geoffrey Dunford Smith, Lawrence Waterhouse Smith, Roger Eric Bate Smith, Simon Spector, LL.B. Birmingham, Gordon Kaye Stephenson, Robert David Bracey Stephenson, Peter Duguid Heath Stock, Philip Stenning Swatman, Ernest Lawrence Thackray, Leonard Tobin, Sidney James Vardon, B.A. Oxon, Charles Harold Vernon, Arthur Davidson Wadsworth, Colin Huson Walker, John Eric Walker, Anthony Lister Walsh, Arnold Lingen Watson, John Francis Meryon Watson, Vyvyan Bernard Wells, John Everard Whitting, B.A. Cantab., William Michael Wild, B.A. Cantab., John Richard Williams, James Wolstan Wilson, Norman Dyason Wood.

No. of Candidates, 272. Passed, 177.

Rules and Orders.

, (Draft.)

THE SUMMARY JURISDICTION (CHILDREN AND YOUNG PERSONS) RULES, DATED , 1933.

1. These Rules may be cited as The Summary Jurisdiction (Children and Young Persons) Rules, 1933.

2. These Rules shall come into operation on the 1st November, 1933.

3. In these Rules the following expressions have the meanings hereby respectively assigned to them, that is to say,—

"the Act" means the Children and Young Persons Act, 1933;*

"court" means in Parts I, II and III a juvenile court constituted in accordance with the provisions of the Second Schedule to the Children and Young Persons Act, 1933, and in Part IV a court of summary jurisdiction, whether a juvenile court or not;

"register" means the separate register kept for the juvenile court pursuant to Rule 25 of these Rules.

PART I.

Juvenile Offenders.

4. This Part of these Rules shall apply in the case of a child or young person brought before a court charged with an offence and, so far as applicable, in the case of any child or young person dealt with in pursuance of section 65 of the Act.

5.—(1) The court shall, except in any case where the child or young person is legally represented, allow his parent or guardian to assist him in conducting his defence, including the cross-examination of witnesses for the prosecution.

* 23 Geo. 5 c. 12.

(2) Where the parent or guardian cannot be found or cannot in the opinion of the court reasonably be required to attend, the court may allow any relative or other responsible person to take the place of the parent or guardian for the purposes of this Part of these Rules.

6. The court shall explain to the child or young person the substance of the charge in simple language suitable to his age and understanding.

7. Subject to the provisions of Rule 8, the court shall then ask the child or young person whether he admits the charge.

8.—(1) When a young person is charged with an indictable offence other than homicide and the court at any time during the hearing of the case is satisfied that it is expedient to deal with the case summarily, the court shall put to the young person the following or similar question telling him that before replying he may consult his parent or guardian, if present :—

" Do you consent to be tried by this court or do you wish to be tried by a jury ? "

and the court shall explain the difference between summary trial and trial by jury and state at what court and place the trial by jury would be held.

(2) If the young person consents to be dealt with summarily the court shall then ask him whether he admits the charge.

9.—(1) If the child or young person does not admit the charge the court shall hear the evidence of the witnesses in support of the charge. At the close of the evidence-in-chief of each witness the witness may be cross-examined by or on behalf of the child or young person.

(2) If in any case where the child or young person is not legally represented or assisted in his defence as provided by Rule 5, the child or young person, instead of asking questions by way of cross-examination, makes assertions, the court shall then put to the witness such questions as it thinks necessary on behalf of the child or young person and may for this purpose question the child or young person in order to bring out or clear up any point arising out of any such assertions.

10. If it appears to the court that a *prima facie* case is made out, the child or young person shall be told that he may give evidence or make a statement, and the evidence of any witnesses for the defence shall be heard.

11. Where the child or young person is found guilty of an offence, whether after a plea of guilty or otherwise :—

(i) he and his parent or guardian, if present, shall be given an opportunity of making a statement ;

(ii) the court shall, except in cases which appear to it to be of a trivial nature, obtain such information as to the general conduct, home surroundings, school record and medical history of the child or young person as may enable it to deal with the case in his best interests, and shall if such information is not fully available consider the desirability of remanding the child or young person for such enquiry as may be necessary ;

(iii) the court shall take into consideration any report which may be furnished by a probation officer or by a local authority in pursuance of section 35 of the Act ;

(iv) any written report of a probation officer, local authority, or registered medical practitioner may be received and considered by the court without being read aloud :

Provided that

(*a*) the child or young person shall be told the substance of any part of the report bearing on his character or conduct which the court considers to be material to the manner in which he should be dealt with ;

(*b*) the parent or guardian, if present, shall be told the substance of any part of the report which the court considers to be material as aforesaid and which has reference to his character or conduct, or the character, conduct, home surroundings, or health of the child or young person ; and

(*c*) if the child or young person or his parent or guardian, having been told the substance of any part of any such report, desires to produce evidence with reference thereto, the court, if it thinks the evidence material, shall adjourn the proceedings for the production of further evidence, and shall, if necessary, require the attendance at the adjourned hearing of the person who made the report ; and

(v) if the court acting in pursuance of this Rule considers it necessary in the interests of the child or young person, it may require the parent or guardian or the child or young person, as the case may be, to withdraw from the court.

12. The court shall thereupon, unless it thinks it undesirable to do so, inform the parent or guardian, if present, of the manner in which it proposes to deal with the child or young person and allow the parent or guardian to make representations.

13. Where a child or young person has been remanded, and the period of remand is extended in his absence in accordance with section 48 of the Act, notice in form No. 8 in the Schedule to these Rules shall be given to him and his sureties (if any) of the date at which he will be required to appear before the court.

Part II.

Juveniles in need of care or protection.

14. This Part of these Rules shall apply in the case of a child or young person dealt with in pursuance of sections 61, 62 and 63 of the Act and shall apply also in the case of a child or young person dealt with in pursuance of section 64 or section 66 of the Act, subject to the modifications in Rules 23 or 24 as the case may be.

15. Where a child or young person is to be brought before the court otherwise than by way of summons or warrant as provided by Rule 16 and an application is to be made to the court in respect of the child or young person for an order under sections 61, 62 and 63 of the Act, the person or authority intending to make the application (hereinafter called the applicant) shall, subject to the provisions of section 34 of the Act, serve a notice on the parent or guardian of the child or young person, if he can be found, specifying the grounds upon which the child or young person is to be brought before the court, and the time and place at which the court will sit : and in any case shall send a notice to the clerk of the court, who shall thereupon enter the particulars of the case in the register.

16.—(1) Where the child or young person has not been removed to a place of safety, a summons may, if necessary, be issued requiring him to attend before the court, and the provisions of section 1 of the Summary Jurisdiction Act, 1848,* shall apply as if the application were by way of complaint for an order.

(2) If in any case it appears necessary to a justice of the peace he may (whether or not a summons has previously been issued) grant a warrant in accordance with the provisions of section 2 of the Summary Jurisdiction Act, 1848,* subject to the modification that the warrant shall direct that the child or young person shall be brought before a juvenile court and, unless he is released on bail, shall be detained in a place of safety until he can be so brought.

17. Before proceeding with the hearing the court shall inform the child or young person of the nature of the application.

18.—(1) Where the application is made under sections 61, 62 and 63 of the Act the court shall, except in a case where the child or young person is legally represented, allow his parent or guardian, if present, to conduct the case in opposition to the application.

(2) Where the parent or guardian cannot be found or cannot in the opinion of the court reasonably be required to attend, the court may allow any relative or other responsible person to take the place of the parent or guardian for the purposes of this Part of these Rules.

19.—(1) The court shall proceed, in accordance with section 15 of the Summary Jurisdiction Act, 1848,* to hear the evidence tendered by or on behalf of the applicant.

(2) Where the nature of the case, or the evidence to be given, is such that in the opinion of the court it is in the interests of the child or young person that the evidence, other than any evidence relating to the character or conduct of the child or young person, should not be given in his presence, the court may hear any part of such evidence in his absence ; and in that event his parent or guardian shall be permitted to remain in court during the absence of the child or young person.

(3) The court may exclude the parent or guardian of the child or young person while he gives evidence or makes statement, if the court is satisfied that in the special circumstances it is proper to do so :

Provided that the court shall inform the parent or guardian of the substance of any allegation made by the child or young person, and shall give him an opportunity of meeting it by calling evidence or otherwise.

20. If it appears to the court after hearing the evidence in support of the application that a *prima facie* case is made out, it shall tell the child or young person and his parent or guardian, if present, that they may give evidence or make a statement, and call witnesses.

21. Where the court is satisfied that the child or young person comes within the description mentioned in the application, or, in the case of an application under section 64 of the Act, that the parent or guardian is unable to control the child or young person—

(i) the court shall obtain such information as to the general conduct, home surroundings, school record and medical history of the child or young person as may enable it to deal with the case in his best interests ; and shall, if such information is not fully available, consider the

* 11 & 12 Vict. c. 43.

desirability of adjourning the case for such enquiry as may be necessary or of making an interim order under section 67 of the Act:

(ii) the court shall take into consideration any report which may be furnished by a probation officer or local authority in pursuance of section 35 of the Act;

(iii) any written report of a probation officer, local authority, or registered medical practitioner may be received and considered by the court without being read aloud:

Provided that

(*a*) the child or young person shall be told the substance of any part of the report bearing on his character or conduct which the court considers to be material to the manner in which he should be dealt with;

(*b*) the parent or guardian, if present, shall be told the substance of any part of the report which the court considers to be material as aforesaid and which has reference to his character or conduct, or the character, conduct, home surroundings, or health of the child or young person; and

(*c*) if the child or young person or his parent or guardian, having been told the substance of any part of such report, desires to produce evidence with reference thereto, the court, if it thinks the evidence material, shall adjourn the proceedings for the production of further evidence and shall, if necessary, require the attendance at the adjourned hearing of the person who made the report; and

(iv) if the court acting in pursuance of this Rule considers it necessary in the interests of the child or young person, it may require the parent or guardian or the child or young person, as the case may be, to withdraw from the court.

22. The court shall thereupon, unless it thinks it undesirable to do so, inform the parent or guardian, if present, of the manner in which it proposes to deal with the child or young person and allow his parent or guardian to make representations.

23. In the application of this Part of these Rules to the case of a child or young person brought before the court under section 64 of the Act the following modifications shall have effect:—

(i) Rules 15 and 18 shall not apply.

(ii) The clerk of the court shall enter the particulars of the case in the register, and the court before dealing with the application shall, unless it is satisfied that the local authority has already been informed, cause notification in writing to be sent to the local authority within whose area the child or young person is resident.

24. In the application of this Part of these Rules to the case of a child or young person brought before a court under section 66 (1) of the Act the following modifications shall have effect:—

(i) In addition to the notice required to be served on the parent or guardian pursuant to Rule 15 the person responsible for bringing the child or young person before the court shall serve notice on the local authority in the same manner as if section 35 of the Act were applicable and reports furnished by a probation officer or local authority shall be taken into consideration as if they were furnished in accordance with that section.

(ii) Rule 18 shall apply in like manner as it applies in the case of an application under sections 61, 62 and 63 of the Act.

(iii) Rule 21 shall apply where the court is satisfied that a *prima facie* case has been made out for the making of an Order under the said section.

Part III.
Register.

25. The clerk of the court shall keep a separate register with such particulars as appear in the form in the Schedule to these Rules. Such register shall be in addition to the register required to be kept by section 22 of the Summary Jurisdiction Act, 1879.*

Part IV.
General.

26. Where a court makes an order under sections 61, 62 and 63, or under section 64 of the Act placing a child or young person under the supervision of a probation officer or some other person, it shall furnish to the child or young person a notice in writing in form No. 59 in the Schedule to these Rules stating in simple terms the effect of the Order, including the power of the court under section 66 (1) of the Act to deal further with him. Such notice shall at the same time be read over to the child or young person (in the presence, if practicable, of his parent or guardian) with such explanation as may be thought desirable.

27. The security which a court of summary jurisdiction may, under section 55 (2) of the Act, require a parent or guardian to give for the good behaviour of a child or young person shall be given by way of recognizance.

28. An order made under section 87 or section 88 (1) of the Act, on a parent or other person liable to maintain a child or young person, may be served by any constable or officer of a local authority by delivering a copy of such order to the person on whom it is made, or by leaving the same at such person's last known place of abode with some other person for him, or by sending the same by registered post to him at his last known place of abode.

29. Where an order is made under section 88 (1) of the Act in respect of an affiliation order, payments under which have been ordered to be made to a collecting officer, notice of the making of the order shall be given by the clerk of the court to the collecting officer, either personally or by written notice sent or delivered to his address by post or otherwise.

30. Where a child or young person is charged with an offence, or is for any other reason brought before a court, a summons or warrant may be issued by a court of summary jurisdiction to enforce the attendance of a parent or guardian for the purposes mentioned in section 34 (3) of the Act, in the same manner as if an information were laid or complaint made upon which a summons or warrant could be issued against a defendant under the Summary Jurisdiction Acts or the Indictable Offences Act, 1848,† and a summons to the child or young person may include a summons to the parent or guardian to enforce his attendance for the said purpose.

31. Where a young person is committed to prison

(*a*) on remand or commitment for trial (section 33 of the Act), or

(*b*) upon a finding of guilt in respect of an offence or in default of payment of a fine, damages, or costs (section 52 (3) of the Act), or

(*c*) after the making of an approved school order (section 69 (2) of the Act)

the Court shall include in the order of committal a certificate as required by section 33 (1) or section 52 (3) of the Act.

32. The forms in the Schedule hereto, or forms to the like effect, may be used, with such variations as circumstances may require, in lieu of the forms in the Schedule to the Summary Jurisdiction Rules, 1915, as amended, and such of these forms as are applicable to cases under the Indictable Offences Act, 1848,† may be used for these cases in lieu of the forms set forth in the Schedule to that Act.

33. The Interpretation Act, 1889,‡ shall apply to the interpretation of these Rules as it applies to the interpretation of an Act of Parliament.

34. The Summary Jurisdiction (Children Act) Rules, 1909,§ are hereby annulled.

Dated the day of , 1933.

SCHEDULE OF FORMS.

1. Summons to child or young person [and to parent or guardian]: offence.
2. Summons for attendance of parent or guardian of child or young persons: offence.
3. Warrant for arrest of child or young person: offence.
4. Notice to parent or guardian: care or protection.
5. Authority to remove to place of safety.
6. Warrant of commitment to remand home on remand: offence.
7. Order for extended remand: offence.
8. Notice of extended remand: offence.
9. Interim order of remand to place of safety: care or protection.
10. Warrant of commitment to remand home on committal for trial.
11. Finding of guilt: fine.
12. Finding of guilt: indictable offence: child.
13. Finding of guilt: indictable offence: young person.
14. Approved school order: offence.
15. Approved school order: care or protection.
16. Approved school order: application by parent: refractory child or young person.
17. Approved school order: following supervision: Section 66.
18. Approved school order: application by local authority as fit person: Section 84 (8).
19. Approved school order: escape from care of fit person: Section 85.
20. Approved school order: Education cases: Third Schedule.
21. Approved school: disposal pending removal to.
22. Approved school: further order of disposal pending removal to.

* 42 & 43 Vict. c. 49.

† 11 & 12 Vict. c. 42. ‡ 52 & 53 Vict. c. 62. § S.R. & O. 1909, No. 698/L.21.

23. Approved school: summons to produce child or young person ordered to be sent to.
24. Approved school: misconduct in: order: defendant under 17.
25. Approved school: misconduct in: order: defendant over 17.
26. Approved school: misconduct, escape, etc.: commitment to Borstal Institution.
27. Approved school: escape from, etc.
28. Approved school: escape from, etc.: summons to produce offender.
29. Fit person: committal to: offence.
30. Fit person: committal to: care or protection.
31. Fit person: committal to: interim order.
32. Fit person: committal to: following supervision.
33. Fir person: committal to: Education cases: Third Schedule.
34. Fit person: committal to: after escape: Section 85.
35. Fit person: committal to: variation or revocation of order.
36. Supervison order: care or protection.
37. Supervision order: application by parent or guardian.
38. Supervision order: after escape.
39. Supervision order: notice to child or young person.
40. Supervision: summons after.
41. Supervision: warrant after.
42. Refractory child or young person: notice to local authority.
43. Contribution order: summons to parent, etc., for.
44. Contribution order on parent, etc.
45. Condition of residence in institution: notice to Secretary of State.
46. Order remitting to Juvenile Court.
47. Register of the Juvenile Court.

[There is insufficient space available to print here the Forms set out in the above Schedule. They are, however, annexed to the Official Copies of the Draft Rules, which may be obtained on application to Room 119, Home Office, Whitehall, S.W.1. —ED., *Sol. J.*]

THE RULES OF THE SUPREME COURT (No. 1), 1933.

Our attention has been called to a typographical error in the issue of 24th June last. In r. 3 of the substituted Order XXII (as set out under the heading "Rules and Orders," at p. 450 of that issue) appear the words "if the whole of the money in court is not taken out under Rule 9." This should have read "under Rule 2."

Societies.

Inns of Court.

CALLS TO THE BAR.

Wednesday, 29th June, was Call Night at the Inns of Court. The following were called:—

LINCOLN'S INN.

J. A. St. J. Farnon; C. H. C. Haslam, of Trin. Coll., Camb., M.A.; L. Drew; Niren De, King's Coll., Camb., B.A., Calcutta Univ., B.A. (Hons.); Muzaffar Ali Khan Qizilbash, of Clare Coll., Camb., B.A., Punjab Univ., B.A.; Queenie Cohen, B.A. (Hons.), Calcutta Univ.; E. S. L. Green, of Magd. Coll., Camb., B.A.; B. Davidson, of New Coll., Oxf., B.A. (Cholmeley Student, Lincoln's Inn); Bijoy Krishna Banerji (Legislative Department, Government of India); L. F. Beccle, Lond. Univ., M.B., B.S., M.R.C.S. Eng. L.R.C.P. Lond.; H. B. Magnus, of Ch. Ch., Oxf., B.A.; R. C. Seddon, of Queens' Coll., Camb.; Ratilal Motichand Doshi, B.A., Bombay Univ.; Major R. Blewitt, D.S.O.; R. S. Lazarus, of Gonv. and Cai. Coll., Camb.

INNER TEMPLE.

N. A. Worley, Emman. Coll., Camb., B.A.; L. Sinh; K. E. Garcke, Trin. Hall, Camb., B.A.; G. Watson, Pemb. Coll., Oxf.; V. P. David, Ball. Coll., Oxf., B.A.; M. N. Tun, A. Birk, Jes. Coll., Camb., B.A.; K. L. Coghlan, Pemb. Coll., Camb., B.A.; H. W. A. Maxwell, of Trin. Coll., Camb., B.A.; J. D. Farmiloe, Linc. Coll., Oxf., B.A.; S. H. Cheah, Christ's Coll., Camb., B.A., LL.B.; M. B. H. Zakariah; G. W. Higgs (holder of a Profumo Prize, awarded 1932, Attorney-at-Law and Notary Public, Bahama Islands); G. B. Winder, Univ. of Lond., B.Sc.; W. A. B. Goss, Trin. Hall, Camb., B.A.; E. C. F. Hulett, Down. Coll., Camb., B.A.; J. Yahuda, Univ; of Lond., LL.B.; W. V. James, Christ's Coll., Camb., B.A.; W. B. Coster, Pemb. Coll., Oxf., M.A., B.C.L.

MIDDLE TEMPLE.

J. D. Cantley, Holder of Studentship and Certificate of Honour award Trinity Examination, 1933, LL.B., Victoria Univ. of Manch.; Amar Nath Bhandari, B.A. (Hons.), Punjab Univ.; E. C. S. Paul, B.A., Trin. Hall, Camb.; Oluwole Ayodele Alakija, B.C.L., M.A., Jes. Coll., Oxf.; Tiang Eee Ong, B.A. (Hons.), Magd. Coll., Camb.; T. L. Tanner, B.A., Trin. Coll., Oxf.; S. C. Irelli, Doctor in Jurisprudence, Royal Univ. of Rome; Malik Ghulam Mohammed Khan, B.A., Punjab Univ.; Marjorie I. Reeves; Amar Nath Maini, B. Com. (Hons.), Lond. Univ.; Prasanta Bihari Mukharji, B.A. (Hons.), Calcutta Univ.; Virchand Melapchand Shah, B.A., Bombay Univ.; Mohamed Ali Merchant, B.Sc. (Econ.) Lond. Univ., B.A., Bombay Univ.; Shankar Tukaram Chaudhari; Teerbohun Persad Seegobin; Shirshchandra Prataprai Desai, B.Sc., Lond. and Bombay Universities; Sharma Lal Chaman; E. C. Emilianides; Methil Madhav Nair; F. J. Carey; Sivaraman Venkata Raman, B.A. (Hons.), Rangoon Univ.; Suleyman Shevket, LL.D. (First Class Hons.), Istanbul Univ.; Bir Singh; Yvonne H. M. E. Stranger; D. R. Midgley; Dina Nath, Punjab Univ.; Provat Kumar Roy, B.A., Nagpur Univ.; F. E. Field; D. J. Jones; D. P. Kerrigan; B. W. Celestain; Margaret K. Haskell, B.A., Bryn Mawr Coll., Pennsylvania, U.S.A.; Arun Kumar Sen, M.Sc., Lond. Univ., M.A., Calcutta Univ.; Mahadeb Hazra, B.Sc., Calcutta Univ.; W. L. Roots, B.A., B.N.C., Oxf.; B. A. G. Winch; A. H. Busby; A. F. Morrison, M.A., Edin. Univ.; Venigalla Venkataratnam, B.A., Madras Univ.; S. A. Hassock; J. V. Refalo, B.A., Malta Univ.; J. McGuckin; Jugal Kishore Dubey, Ph.D., Lond. Univ., M.S., Illinois Univ.; Pesi Phirozshaw Mistry, B.A., LL.B., Bombay Univ.; Meloth Krishnan, Nambyar, B.A., B.L., Madras Univ.

GRAY'S INN.

John Wilfred Large, Administrative Officer, Tanganyika Territory; Walter Robert George Smith, Deputy-Commissioner of Police, Bombay; William Hugh Evans, B.A., Univ. of Wales; David James Llewelfryn Davies, M.A., Gonv. and Cai. Coll., Camb., LL.B., Univ. of Wales; Alfred Sydney Martin Pratt; James Charles Gardner, B.A., LL.B., Fitzwilliam House, Camb.; Elsie Watson, LL.B., Univ. of Lond.; Hugh Peter Lansdale-Ruthven; George Taylor, M.A., Victoria Univ. of Manch.; Leslie Simon Goonewardene, B.Sc.(Econ.), Univ. of Lond.; Isaac Ben-Jaminy, graduate of Univ. of Tomsk, of the Russian Bar, and Advocate of the Palestinian Bar; Syed Ahmed Mahmud Ghaznavi, B.A., Punjab Univ.; Glyn Lloyd, D.S.O., F.R.C.V.S., Major, R.A.V.C.; Philip Charles Stones Kershaw, B.A., Mert. Coll. Oxf.; William George Glenvil Hall; Henry William George Westlake; Abraham Ashriki; Kiran Kumar Bhattacharya, M.A., B.L., Calcutta Univ., Vakil of the Calcutta High Court.

Legal Notes and News.

Honours and Appointments.

The King has been pleased, on the recommendation of the Secretary of State for Scotland, to appoint Mr. JOHN DALRYMPLE JOHNSTON, Advocate, to be Sheriff Substitute of Dumfries and Galloway at Dumfries, in place of the late Mr. James Gordon Brand, Advocate.

The Lord Chancellor has appointed Mr. GEORGE TUDOR to be the Registrar of Builth County Court as from the 1st July, 1933.

Mr. P. STOCKS, M.D., D.P.H., has been appointed as Medical Statistical Officer in the General Register Office.

Sir JOHN HARVEY, Chief Judge in Equity, has been appointed Chief Justice of New South Wales in succession to Sir Philip Street.

Sir MONTAGU SHARPE, K.C., has been re-elected Chairman of Middlesex Sessions, and Sir THOMAS FORSTER, K.C., re-elected Deputy Chairman.

Mr. R. L. MOON, solicitor, of Warwick, has been appointed Clerk to the Gloucestershire County Council and Clerk of the Peace for the County. Mr. Moon was admitted a solicitor in 1926.

Professional Announcements.

(2s. per line.)

NOTICE IS HEREBY GIVEN that the partnership heretofore subsisting between us, the undersigned CHRISTOPHER REGINALD WALTER HEATH, JOHN ZACHARY MACAULAY HAMILTON and ARTHUR DE FREYNE MACMIN, carrying on business as Solicitors at 15 Dowgate Hill, Cannon-street, London, E.C.4, and at Hindhead, Surrey, and at Harlow, Essex, under the style or firm of "King, Adams, Heath, Hamilton & Macmin," has been dissolved by mutual consent as from the Thirtieth day of June One thousand nine hundred and thirty-three.

The said Christopher Reginald Walter Heath will in future carry on his practice at 15 Dowgate Hill aforesaid under the style of "King, Adams & Heath." The said John Zachary Macaulay Hamilton will in future carry on his practice under his own name at 15 Dowgate Hill aforesaid, and also at Hindhead, Surrey. The said Arthur de Freyne Macmin will in future carry on his business at Pomeroy House, 28A Basinghall-street, London, E.C.2, and at Harlow, Essex.

As witness our hands this Thirtieth day of June, One thousand nine hundred and thirty-three.

C. R. WALTER HEATH.
J. Z. M. HAMILTON.
A. DE F. MACMIN.

CALLING WITNESSES AFTER CLOSE OF CASE.

In allowing an appeal from the Central Criminal Court and quashing a conviction for publishing defamatory libels relating to two sergeants of the Metropolitan Police Force, the Court of Criminal Appeal, consisting of the Lord Chief Justice and Horridge and Humphreys, JJ., had before it somewhat unusual facts. The Recorder had ruled that the occasion of the publications was privileged, but that there was evidence of malice to go to the jury. The Lord Chief Justice in a judgment reported in *The Times*, 4th July, said that the trial had taken a peculiar course. There had been no plea of justification, nor any suggestion on the part of the appellant that what he had written was true, but after all the evidence had been given on behalf of the prosecution and the defence the Recorder proceeded to call six witnessses, including the two sergeants alleged to have been libelled. In the opinion of the court the conditions under which a judge had a right to call witnesses at a criminal trial had not been fulfilled in the present case, and it followed that the evidence of those six witnesses had not been improperly admitted. Moreover, many of the questions which were asked of those witnesses might well have created the impression in the minds of the jury that the real issue was whether the words complained of in the letters that formed the subject-matter of the charge were true or not. That was not the issue, and it was impossible to say that if that evidence had not been admitted the result must necessarily or would inevitably have been the same.

Court Papers.

Supreme Court of Judicature.

ROTA OF REGISTRARS IN ATTENDANCE ON

DATE.		EMERGENCY ROTA.	APPEAL COURT No. I.	GROUP I. MR. JUSTICE EVE. Non-Witness.	MR. JUSTICE MAUGHAM. Witness. Part II.
July	10	Mr. Ritchie	Mr. Hicks Beach	Mr. More	Mr. *Ritchie
,,	11	Blaker	Andrews	Ritchie	Andrews
,,	12	More	Jones	Andrews	*More
,,	13	Hicks Beach	Ritchie	More	Ritchie
,,	14	Andrews	Blaker	Ritchie	*Andrews
,,	15	Jones	More	Andrews	More

DATE.		GROUP I. MR. JUSTICE BENNETT. Witness. Part I.	GROUP II. MR. JUSTICE CLAUSON. Witness. Part II.	MR. JUSTICE LUXMOORE. Witness. Part I.	MR. JUSTICE FARWELL. Non-Witness.
July	10	Mr. *Andrews	Mr. Hicks Beach	Mr. *Blaker	Mr. Jones
,,	11	*More	*Blaker	*Jones	Hicks Beach
,,	12	*Ritchie	Jones	*Hicks Beach	Blaker
,,	13	Andrews	*Hicks Beach	*Blaker	Jones
,,	14	*More	Blaker	Jones	Hicks Beach
,,	15	Ritchie	Jones	Hicks Beach	Blaker

* The Registrar will be in Chambers on these days, and also on the days when the Court is not sitting.

Stock Exchange Prices of certain Trustee Securities.

Bank Rate (30th June, 1932) 2%. Next London Stock Exchange Settlement Thursday, 13th July, 1933.

	Div. Months.	Middle Price 5 July 1933.	Flat Interest Yield. £ s. d.	†Approximate Yield with redemption £ s. d.
ENGLISH GOVERNMENT SECURITIES				
Consols 4% 1957 or after	FA	107½xd	3 14 8	3 11 0
Consols 2½%	JAJO	71½	3 9 11	—
War Loan 3½% 1952 or after	JD	98½	3 11 1	—
Funding 4% Loan 1960-90	MN	110	3 12 9	3 8 7
Victory 4% Loan Av. life 29 years	MS	109	3 13 5	3 10 0
Conversion 5% Loan 1944-64	MN	116⅜	4 5 11	3 4 2
Conversion 4½% Loan 1940-44	JJ	109	4 2 7	3 1 1
Conversion 3½% Loan 1961 or after	AO	98¾	3 10 10	—
Conversion 3% Loan 1948-53	MS	97½	3 1 6	3 3 5
Conversion 2½% Loan 1944-49	AO	92⅝	2 13 11	3 1 8
Local Loans 3% Stock 1912 or after	JAJO	83¾	3 11 7	—
Bank Stock	AO	335½	3 11 6	—
Guaranteed 2½% Stock (Irish Land Act) 1933 or after	JJ	75	3 13 4	—
India 4½% 1950-55	MN	106	4 4 11	4 0 2
India 3½% 1931 or after	JAJO	79	4 8 7	—
India 3% 1948 or after	JAJO	67	4 9 7	—
Sudan 4½% 1939-73	FA	108xd	4 3 4	2 17 11
Sudan 4% 1974 Red. in part after 1950	MN	108	3 14 1	3 7 6
Transvaal Government 3% Guaranteed 1923-53 Average life 12 years	MN	100	3 0 0	3 0 0
COLONIAL SECURITIES				
*Australia (Commonw'th) 5% 1945-75	JJ	104	4 16 2	4 11 2
Canada 3½% 1930-50	JJ	98	3 11 5	3 13 2
*Cape of Good Hope 3½% 1929-49	JJ	99	3 10 8	3 11 8
Natal 3% 1929-49	JJ	94	3 3 10	3 10 5
New South Wales 3½% 1930-50	JJ	91	3 16 11	4 5 0
*New South Wales 5% 1945-65	JD	103	4 17 1	4 13 4
*New Zealand 4½% 1948-58	MS	103	4 7 5	4 4 6
*New Zealand 5% 1946	JJ	106	4 14 4	4 6 11
*Queensland 4% 1940-50	AO	99	4 0 10	4 1 8
*South Africa 5% 1945-75	JJ	110	4 10 11	3 18 9
*South Australia 5% 1945-75	JJ	104	4 16 2	4 11 2
Tasmania 3½% 1920-40	JJ	98	3 11 5	3 17 1
Victoria 3½% 1929-49	AO	93	3 15 3	4 2 0
*W. Australia 4% 1942-62	JJ	99	4 0 10	4 1 2
CORPORATION STOCKS				
Birmingham 3% 1947 or after	JJ	84	3 11 5	—
Birmingham 4½% 1948-68	AO	112	4 0 4	3 9 3
*Cardiff 5% 1945-65	MS	110	4 10 11	3 18 9
Croydon 3% 1940-60	AO	93	3 4 6	3 8 0
*Hastings 5% 1947-67	AO	114	4 7 9	3 14 0
Hull 3½% 1925-55	FA	98xd	3 11 5	3 12 8
Liverpool 3½% Redeemable by agreement with holders or by purchase	JAJO	98	3 11 5	—
London County 2½% Consolidated Stock after 1920 at option of Corp.	MJSD	72	3 9 5	—
London County 3% Consolidated Stock after 1920 at option of Corp.	MJSD	84	3 11 5	—
Manchester 3% 1941 or after	FA	84xd	3 11 5	—
Metropolitan Consd. 2½% 1920-49	MJSD	92½	2 14 1	3 2 1
Metropolitan Water Board 3% "A" 1963-2003	AO	86	3 9 9	3 10 10
Do. do. 3% "B" 1934-2003	MS	87	3 9 0	3 10 1
Do. do. 3% "E" 1953-73	JJ	93	3 4 6	3 6 5
*Middlesex C.C. 3½% 1927-47	FA	100xd	3 10 0	3 10 0
Do. do. 4½% 1950-70	MN	113	3 19 8	3 9 5
Nottingham 3% Irredeemable	MN	84	3 11 5	—
*Stockton 5% 1946-66	JJ	112xd	4 9 3	3 16 2
ENGLISH RAILWAY PRIOR CHARGES				
Gt. Western Rly. 4% Debenture	JJ	102½	3 18 1	—
Gt. Western Rly. 5% Rent Charge	FA	115½	4 6 7	—
Gt. Western Rly. 5% Preference	MA	88½	5 13 0	—
‡L. & N.E. Rly. 4% Debenture	JJ	88xd	4 10 11	—
‡L. & N.E. Rly. 4% 1st Guaranteed	FA	73½	5 8 10	—
London Electric 4% Debenture	JJ	101½	3 18 10	—
‡L. Mid. & Scot. Rly. 4% Debenture	JJ	92½	4 6 6	—
‡L. Mid. & Scot. Rly. 4% Guaranteed	MA	83½	4 15 10	—
Southern Rly. 4% Debenture	JJ	100½	3 19 7	—
Southern Rly. 5% Guaranteed	MA	109½	4 11 4	—
Southern Rly. 5% Preference	MA	92½	5 8 1	—

* Not available to Trustees over par.
† In the case of Stocks at a premium, the yield with redemption has been calculated as at the earliest date; in the case of other stocks, as at the latest date.
‡ These Stocks are no longer available for trustees, either as strict Trustee or Chancery Stocks, no dividend having been paid on the Companies' Ordinary Stocks for the past year.

1933

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Stock
3.

†Approximate Yield with redemption		
£	s.	d.
3	11	0
—		
—		
3	8	7
3	10	0
3	4	2
3	1	1
—		
3	3	5
3	1	8
—		
—		
—		
4	0	2
—		
—		
2	17	11
3	7	6
3	0	0
4	11	2
3	13	2
3	11	8
3	10	5
4	5	0
4	13	4
4	4	6
4	6	11
4	1	8
3	18	9
4	11	2
3	17	1
4	2	0
4	1	2
—		
3	9	3
3	18	9
3	8	0
3	14	0
3	12	8
—		
—		
—		
—		
3	2	1
3	10	10
3	10	1
3	6	5
3	10	0
3	9	5
—		
3	16	2
—		
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calculated

Trustee or
ary Stocks